S. Hrg. 99-841

USCG AUTHORIZATIONS AND LOAD LINES

HEARING

BEFORE THE

SUBCOMMITTEE ON
MERCHANT MARINE

OF THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

FISCAL YEAR 1987 COAST GUARD AUTHORIZATION ISSUES

H.R. 1362

TO REVISE, CONSOLIDATE, AND ENACT CERTAIN LAWS RELATED TO LOAD LINES AND MEASUREMENT OF VESSELS AS PARTS C AND J OF SUBTITLE II OF TITLE 46, UNITED STATES CODE

MAY 13, 1986

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COAST GUARD REAUTHORIZATION AND LOAD LINE LEGISLATION

TUESDAY, MAY 13, 1986

U.S. Senate,
Committee on Commerce, Science and Transportation
Subcommittee on Merchant Marine
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room SR-253, Russell Senate Office Building, the Hon. Ted Stevens, [Chairman of the Subcommittee], presiding.

Staff members assigned to this hearing: Brad Gilman, professional staff member; and Jim Drewry, minority staff counsel

OPENING STATEMENT BY SENATOR STEVENS

Senator Stevens. Good morning.

The Merchant Marine Subcommittee has scheduled this hearing to address both the necessary authorization levels for the Coast Guard for fiscal year 1987 and legislation passed by the House to revamp the domestic laws relating to tonnage measures and load lines.

The President has requested $2.3 billion for the fiscal year 1987 Coast Guard budget. Both the administration and Congress has recognized the importance of the Coast Guard's role in domestic activities which are inherently governmental in nature such as fishery enforcement and drug interdiction. In addition, the agency is instrumental to our coastal defense strategy.

The President's request represents an effort to reduce the deficit and maintain the necessary funding levels for the agency operations. The request includes only $77 million for acquisition, construction, and improvements. This proposal was based on the assumption that $190 million appropriated to the Coast Guard for 1986 to acquire defense-related equipment would be deferred until 1987. This difference in funding priorities has been worked out between the administration and Members of the Congress. One purpose of today's hearing is to explore the actual need of the Coast Guard for AC&I in absence of the deferral.

The Coast Guard is also becoming involved in a unique fishery management problem on the high seas. Although we assert exclusive management jurisdiction over salmon of U.S. origin, actual high seas fishing operations fall under the jurisdiction of the International North Pacific Fisheries Commission, the INPFC.

In the last few years it has become apparent that the Japanese land-based driftnet fleets are having a tremendous impact on the living marine resources of the North Pacific. This fleet sets thousands of miles of non-biodegradable driftnets per day. Much of this netting is discarded or lost but continues to create havoc with salmon, marine mammals, and sea bird populations. The Government of Japan has been unable to control the land-based fleets in the past. We have evidence of repeated violations of the INPFC regulations which impose area restrictions on Japanese fishermen in an effort to minimize the harvesting of U.S.-origin salmon.

In an effort to curtail these violations and further reduce salmon interceptions, the Government of Japan and the U.S. concluded a bilateral agreement which increases enforcement activities in the land-based areas. The agreement calls for six Japanese enforcement vessels to patrol the abstention line during the salmon season. The agreement also provides for the placement of a U.S. observer on board a Japanese vessel for part of the fishing season.

This agreement is one step toward the ultimate resolution of the driftnet problem; however, U.S. enforcement activities will have to be increased in the land-based fishing area if we are going to curtail fishing excursions into those areas as prohibited by the INPFC.

Coast Guard vessels will, we feel, be necessary to reinforce the Japanese enforcement effort. The largest problem will be the establishment of an enforcement network that is sound and cost-effective. I am hopeful that today's hearing may provide us with some insight into the logistical problems the Coast Guard faces in carrying out the U.S. enforcement responsibilities associated with the bilateral agreement.

The second part of the hearing will focus on the efforts of the House Merchant Marine and Fisheries Committee to develop a uniform system for the assignment of load line and tonnage measurements. It is my understanding that H.R. 1362 embodies a compromise worked out by Members of the House, the administration, and the merchant marine industry.

We hope this hearing will clarify the precise nature of the regulatory reform proposals involved in that compromise.

I know that Senator Trible is here also and would like to ask some questions concerning his bill, S. 1764, which would require emergency position indicating beacons on fishing vessels. We would be pleased to make his proposal a part of this hearing.

Senator Trible, do you have any comments?

Senator TRIBLE. Mr. Chairman, I thank you.

I just want to welcome Admiral Gracey and his colleagues, and I look forward to their testimony. When I have an opportunity to question the Admiral, I will focus on S. 1764, and thank you for that opportunity.

Senator STEVENS. Very well, then, we will proceed. I am sorry for the long statement, but we wanted it included in the record, gentlemen.

I also have an opening statement from Senator Hollings that I will include in the record.

[The statement and bill follow:]

OPENING STATEMENT BY SENATOR HOLLINGS

Mr. Chairman, your timing for the Coast Guard's authorization hearing is excellent. Only 2 days from now the Appropriations Committee will take up the fiscal year 1986 supplemental appropriations bill, and one of the issues will be funding for the Coast Guard.

As you know, the administration has asked for $46 million in operating expenses to help the agency carry on without having to close down bases, lay up ships and aircraft, or release personnel. The Coast Guard has had a struggle this year, with an operations funding shortfall of $142 million. Curtailed patrols, deferred maintenance and training, and various other austerity measures have enabled the agency to get this far without more drastic steps. But in the Appropriations Committee markup this Thursday, there will no doubt be considerable pressure to approve less than the full $46 million. Our hearing today can help us determine the probable effect of providing funding below the administration's request.

As for fiscal year 1987, I am pleased to see that the administration and the Congress are together on keeping the Coast Guard's operations going. The House authorization bill, the Senate budget resolution, and the administration budget request are all in agreement that a little more than $1.8 billion in operating expenses is what is needed. This amount will permit vital drug interdiction work in the Caribbean to continue without interruption. It will also enable the Coast Guard to carry out its many other important missions—from search and rescue activities in aid of distressed boats, ships and aircraft, to such impromptu assignments as salvaging debris from the *Challenger* accident.

In addition to the appropriation issues, I look for this hearing to shed useful light on two other key issues. First, there is the question whether the Coast Guard Auxiliary should be allowed to respond to non-emergency rescue cases, despite the availability of commercial towing services in the area. In Charleston I am told that the Auxiliary membership has declined by over 30 percent in the last 3 or 4 years. Some say that the Coast Guard's non-emergency rescue policy is driving people out of the Auxiliary. While I am supportive of enabling commercial towing businesses to compete, I am concerned about tying the hands of a volunteer organization that is founded on the spirit of mariner aiding mariner.

The final issue I hope to address at this hearing is the desirability of a change to Public Law 96-350, the very effective high seas drug enforcement law we enacted in 1980. Earlier this year the Commerce Committee approved my amendment to H.R. 739 which makes clear that oral consent by a foreign nation is a sufficient basis for the Coast Guard to board and seize a vessel flying that nation's flag. H.R. 739 is now at the White House, awaiting the President's signature.

In looking into the oral consent issue, however, I became aware of a broader underlying problem—individual defendants are employing international jurisdiction objections in an effort to escape conviction. In my view only the flag nation of a vessel should have a right to question whether the Coast Guard has boarded that vessel with the required consent. I would like to amend Public Law 96-350 so that defendants cannot inject these collateral issues into their trials. Certainly drug smugglers are fully aware that they are engaged in universally recognized criminal behavior. However, I want to take care in writing such an amendment. In particular, I want to ensure that the Coast Guard will continue to obtain valid consent from the flag nation before boarding a suspicious foreign vessel.

Mr. Chairman, I look forward to joining with you in drafting a sound authorization bill. Likewise, I will make every effort to address any concerns about H.R. 1362 before that bill goes to markup. It appears, however, that the House has developed provisions on load lines and tonnage measurement that represent a consensus among interested parties.

99TH CONGRESS
1ST SESSION

H. R. 1362

IN THE SENATE OF THE UNITED STATES

DECEMBER 3 (legislative day, December 2), 1985

Received; read twice and referred to the Committee on Commerce, Science, and Transportation

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AN ACT

To revise, consolidate, and enact certain laws related to load lines and measurement of vessels as parts C and J of subtitle II of title 46, United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PARTS C AND J OF SUBTITLE II OF TITLE 46, UNITED STATES CODE

SECTION 1. Subtitle II of title 46, United States Code, is amended as follows:

(1) The table of chapters at the beginning of the subtitle is amended by—

(A) striking "[PART C—RESERVED FOR LOAD LINES OF VESSELS]" and inserting—

"PART C—LOAD LINES OF VESSELS

"51. Load lines .... 5101";

and

(B) striking "[PART J—RESERVED FOR MEASUREMENT OF VESSELS]" and inserting—

"PART J—MEASUREMENT OF VESSELS

"141. General 14101
"143. Convention measurement 14301
"145. Regulatory measurement 14501
"147. Penalties .... 14701".

(2) Immediately after part B, strike "[PART C—RESERVED FOR LOAD LINES OF VESSELS]" and insert the following new part C:

PART C—LOAD LINES OF VESSELS

CHAPTER 51—LOAD LINES

Sec.

5101. Definitions.
5102. Application.
5103. Load line requirements.
5104. Assignment of load lines.
5105. Load line surveys.
5106. Load line certificate.
5107. Delegation of authority.
5108. Special exemptions.
5109. Reciprocity for foreign vessels.
5110. Submersible vessels.
5111. Providing loading information.
5112. Loading restrictions.
5113. Detention of vessels.
5114. Use of Customs Service officers and employees for enforcement.
5115. Regulations.
5116. Penalties.

§ 5101. Definitions

In this chapter—

(1) "domestic voyage" means movement of a vessel between places in, or subject to the jurisdiction of, the United States, except movement between—

(A) a place in a territory or possession of the United States or the Trust Territory of the Pacific Islands; and

(B) a place outside that territory, possession, or Trust Territory.

(2) "economic benefit of the overloading" means the amount obtained by multiplying the weight of the overload (in tons) by the lesser of—

(A) the average freight rate value of a ton of the vessel's cargo for the voyage; or

(B) $50.

(3) "existing vessel" means—

(A) a vessel on a domestic voyage, the keel of which was laid, or that was at a similar stage of construction, before January 1, 1986; and

(B) a vessel on a foreign voyage, the keel of which was laid, or that was at a similar stage of construction, before July 21, 1968.

(4) "freeboard" means the distance from the mark of the load line assigned under this chapter to the freeboard deck.

(5) "freeboard deck" means the deck or other structure the Secretary prescribes by regulation.

(6) "minimum safe freeboard" means the freeboard that the Secretary decides cannot be reduced safely without limiting the operation of the vessel.

(7) "weight of the overload" means the amount obtained by multiplying the number of inches that the vessel is submerged below the applicable assigned freeboard by the tons-an-inch immersion factor for the vessel at the assigned minimum safe freeboard.

§ 5102. Application

(a) Except as provided in subsection (b) of this section, this chapter applies to the following:

(1) a vessel of the United States.

(2) a vessel on the navigable waters of the United States.

(3) a vessel—

(A) owned by a citizen of the United States or a corporation established by or under the laws of the United States or a State; and

(B) not registered in a foreign country.

(4) a public vessel of the United States.

(5) a vessel otherwise subject to the jurisdiction of the United States.

(b) This chapter does not apply to the following:

(1) a vessel of war.

(2) a recreational vessel when operated only for pleasure.

(3) a fishing vessel.

(4) a fish processing vessel of not more than 5,000 gross tons that—

(A)(i) was constructed as a fish processing vessel before August 16, 1974; or

(ii) was converted for use as a fish processing vessel before January 1, 1983; and

(B) is not on a foreign voyage.

(5) a fish tender vessel of not more than 500 gross tons that—

(A)(i) was constructed, under construction, or under contract to be constructed as a fish tender vessel before January 1, 1980; or

(ii) was converted for use as a fish tender vessel before January 1, 1983; and

(B) is not on a foreign voyage.

(6) a vessel of the United States on a domestic voyage that does not cross the Boundary Line, except a voyage on the Great Lakes.

(7) a vessel of less than 24 meters (79 feet) overall in length.

(8) a public vessel of the United States on a domestic voyage.

(9) a vessel excluded from the application of this chapter by an international agreement to which the United States Government is a party.

(10) an existing vessel of not more than 150 gross tons that is on a domestic voyage.

(11) a small passenger vessel on a domestic voyage.

(c) On application by the owner and after a survey under section 5105 of this title, the Secretary may assign load lines for a vessel excluded from the application of this chapter under subsection (b) of this section. A vessel assigned load lines under this subsection is subject to this chapter until the surrender of its load line certificate and the removal of its load line marks.

(d) This chapter does not affect an international agreement to which the Government is a party that is not in conflict with the International Convention on Load Lines currently in force for the United States.

§ 5103. Load line requirements

(a) A vessel may be operated only if the vessel has been assigned load lines.

(b) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel shall mark and maintain the load lines permanently and conspicuously in the way prescribed by the Secretary.

§ 5104. Assignment of load lines

(a) The Secretary shall assign load lines for a vessel so that they indicate the minimum safe freeboard to which the vessel may be loaded. However, if the owner requests, the Secretary may assign load lines that result in greater freeboard than the minimum safe freeboard.

(b) In assigning load lines for a vessel, the Secretary shall consider—

(1) the service, type, and character of the vessel;

(2) the geographic area in which the vessel will operate; and

(3) applicable international agreements to which the United States Government is a party.

(c) An existing vessel may retain its load lines assigned before January 1, 1986, unless the Secretary decides that a substantial change in the vessel after those load lines were assigned requires that new load lines be assigned under this chapter.

(d) The minimum freeboard of an existing vessel may be reduced only if the vessel complies with every applicable provision of this chapter.

(e) The Secretary may designate by regulation specific geographic areas that have less severe weather or sea conditions and from which there is adequate time to return to available safe harbors. The Secretary may reduce the minimum freeboard of a vessel operating in these areas.

§ 5105. Load line surveys

(a) The Secretary may provide for annual, renewal, and other load line surveys.

(b) In conducting a load line survey, the Secretary shall consider whether—

(1) the hull and fittings of the vessel—

(A) are adequate to protect the vessel from the sea; and

(B) meet other requirements the Secretary may prescribe by regulation;

(2) the strength of the hull is adequate for all loading conditions;

(3) the stability of the vessel is adequate for all loading conditions;

(4) the topsides of the vessel are arranged and constructed to allow rapid overboard drainage of deck water in heavy weather; and

(5) the topsides of the vessel are adequate in design, arrangement, and equipment to protect crewmembers performing outside tasks necessary for safe operation of the vessel.

§ 5106. Load line certificate

(a) On finding that a load line survey of a vessel under this chapter is satisfactory and that the vessel's load lines are marked correctly, the Secretary shall issue the vessel a load line certificate and deliver it to the owner, master, or individual in charge of the vessel.

(b) The certificate shall be maintained as required by the Secretary.

§ 5107. Delegation of authority

(a) The Secretary shall delegate to the American Bureau of Shipping or other similarly qualified organizations the authority to assign load lines, survey vessels, determine that load lines are marked correctly, and issue load line certificates under this chapter.

(b) Under regulations prescribed by the Secretary, a decision of an organization delegated authority under subsection (a) of this section related to the assignment of a load line may be appealed to the Secretary.

(c) For a vessel intended to be engaged on a foreign voyage, the Secretary may delegate to another country that is a party to the International Convention on Load Lines, 1966, the authority to assign load lines, survey vessels, determine that the load lines are marked correctly, and issue an International Load Line Certificate (1966).

(d) The Secretary at any time may revoke without cause a delegation made under this section.

§ 5108. Special exemptions

(a) The Secretary may exempt a vessel from any part of this chapter when—

(1) the vessel is entitled to an exemption under an international agreement to which the United States Government is a party; or

(2) under regulations (including regulations on special operations conditions) prescribed by the Secretary, the Secretary finds that good cause exists for granting an exemption.

(b) When the Secretary grants an exemption under this section, the Secretary may issue a certificate of exemption stating the extent of the exemption.

(c) A certificate of exemption issued under subsection (b) of this section shall be maintained as required by the Secretary.

§ 5109. Reciprocity for foreign vessels

(a) When the Secretary finds that the laws and regulations of a foreign country related to load lines are similar to those of this chapter and the regulations prescribed under this chapter, or when a foreign country is a party to an international load line agreement to which the United States Government is a party, the Secretary shall accept the load line marks and certificate of a vessel of that foreign country as complying with this chapter and the regulations prescribed under this chapter. The Secretary may control the vessel as provided for in the applicable international agreement.

(b) Subsection (a) of this section does not apply to a vessel of a foreign country that does not recognize load lines assigned under this chapter.

§ 5110. Submersible vessels

Notwithstanding sections 5103–5105 of this title, the Secretary may prescribe regulations for submersible vessels to provide a minimum level of safety. In developing the regulations, the Secretary shall consider factors relevant to submersible vessels, including the structure, stability, and watertight integrity of those vessels.

§ 5111. Providing loading information

The Secretary may prescribe regulations requiring the owner, charterer, managing operator, and agent of a vessel to provide loading information (including information on loading distribution, stability, and margin of strength) to the master or individual in charge of the vessel in a language the master or individual understands.

§ 5112. Loading restrictions

(a) A vessel may not be loaded in a way that submerges the assigned load line or the place at which the load line is required to be marked on the vessel.

(b) If the loading or stability conditions of a vessel change, the master or individual in charge of the vessel, before moving the vessel, shall record in the official logbook or other permanent record of the vessel—

(1) the position of the assigned load line relative to the water surface; and

(2) the draft of the vessel fore and aft.

(c) A vessel may be operated only if the loading distribution, stability, and margin of strength are adequate for the voyage or movement intended.

(d) Subsections (a) and (b) of this section do not apply to a submersible vessel.

§ 5113. Detention of vessels

(a) When the Secretary believes that a vessel is about to leave a place in the United States in violation of this chapter or a regulation prescribed under this chapter, the Secretary may detain the vessel by giving notice to the owner, charterer, managing operator, agent, master, or individual in charge of the vessel.

(b) A detained vessel may be cleared under section 4197 of the Revised Statutes (46 App. U.S.C. 91) only after the violation has been corrected. If the vessel was cleared before being detained, the clearance shall be withdrawn.

(c) Under regulations prescribed by the Secretary, the owner, charterer, managing operator, agent, master, or individual in charge of a detained vessel may petition the Secretary to review the detention order.

(d) After reviewing a petition, the Secretary may affirm, withdraw, or change the detention order. Before acting on the petition, the Secretary may require any independent survey that may be necessary to determine the condition of the vessel.

(e) The owner of a vessel is liable for the cost incident to a petition for review and any required survey if the vessel is found to be in violation of this chapter or a regulation prescribed under this chapter.

§ 5114. Use of Customs Service officers and employees for enforcement

(a) With the approval of the Secretary of the Treasury, the Secretary may use an officer or employee of the United States Customs Service to enforce this chapter and the regulations prescribed under this chapter.

(b) The Secretary shall consult with the Secretary of the Treasury before prescribing a regulation that affects the enforcement responsibilities of an officer or employee of the Customs Service.

§ 5115. Regulations

(a) The Secretary may prescribe regulations to carry out this part.

§ 5116. Penalties

(a) Except as otherwise provided in this section, the owner, charterer, managing operator, agent, master, and individual in charge of a vessel violating this chapter or a regulation prescribed under this chapter are each liable to the United States Government for a civil penalty of not more than $5,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

(b) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel allowing, causing, attempting to cause, or failing to take reasonable care to prevent a violation of section 5112(a) of this title are each liable to the Government for a civil penalty of not more than $10,000 plus an additional amount equal to twice the economic benefit of the overloading. The vessel also is liable in rem for the penalty.

(c) The master or individual in charge of a vessel violating section 5112(b) of this title is liable to the Government for a civil penalty of not more than $5,000. The vessel also is liable in rem for the penalty.

(d) A person causing or allowing the departure of a vessel from a place within the jurisdiction of the United States in violation of a detention order issued under section 5113 of this title shall be fined not more than $10,000, imprisoned for not more than one year, or both.

(e) A person causing or allowing the alteration, concealment, or removal of a mark placed on a vessel under section 5103(b) of this title and the regulations prescribed under this chapter, except to make a lawful change or to escape enemy capture in time of war, shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.

(3) Immediately after part I, strike "[PART J—RESERVED FOR MEASUREMENT OF VESSELS]" and insert the following new part J:

PART J—MEASUREMENT OF VESSELS

CHAPTER 141—GENERAL

Sec.
14101. Definitions.
14102. Regulations.
14103. Delegation of authority.
14104. Measurement to determine application of a law.

§ 14101. Definitions

In this part—

(1) "Convention" means the International Convention on Tonnage Measurement of Ships, 1969.

(2) "existing vessel" means a vessel the keel of which was laid or that was at a similar stage of construction before July 18, 1982.

(3) "Great Lakes" means—

(A) the Great Lakes; and

(B) the St. Lawrence River west of—

(i) a rhumb line drawn from Cap des Rosiers to West Point, Anticosti Island; and

(ii) on the north side of Anticosti Island, the meridian of longitude 63 degrees west.

(4) "vessel engaged on a foreign voyage" means a vessel—

(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

(B) making a voyage between places outside the United States (except a foreign vessel engaged on that voyage);

(C) departing from a place under the jurisdiction of the United States for a place in a foreign country; or

(D) making a voyage between a place within a territory or possession of the United States and another place under the jurisdiction of the United States not within that territory or possession.

§ 14102. Regulations

The Secretary may prescribe regulations to carry out this part.

§ 14103. Delegation of authority

(a) The Secretary may delegate to a qualified person the authority to measure a vessel and issue an International Tonnage Certificate (1969) or other appropriate certificate of measurement under this part.

(b) Under regulations prescribed by the Secretary, a decision of the person delegated authority under subsection (a) of this section related to measuring a vessel or issuing a certificate may be appealed to the Secretary.

(c) For a vessel intended to be engaged on a foreign voyage, the Secretary may delegate to another country that is a party to the Convention the authority to measure the vessel and issue an International Tonnage Certificate (1969) under chapter 143 of this title.

(d) The Secretary at any time may revoke without cause a delegation made under this section.

§ 14104. Measurement to determine application of a law

When the application of a law of the United States to a vessel depends on the vessel's tonnage, the vessel shall be measured under this part.

CHAPTER 143—CONVENTION MEASUREMENT

Sec.
14301. Application.
14302. Measurement.
14303. International Tonnage Certificate (1969).
14304. Remeasurement.
14305. Optional regulatory measurement.
14306. Reciprocity for foreign vessels.
14307. Inspection of foreign vessels.

§ 14301. Application

(a) Except as otherwise provided in this section, this chapter applies to the following:

(1) a documented vessel.

(2) a vessel that is to be documented under chapter 121 of this title.

(3) a vessel engaged on a foreign voyage.

(b) This chapter does not apply to the following:

(1) a vessel of war.

(2) a vessel of less than 24 meters (79 feet) overall in length.

(3) a vessel operating only on the Great Lakes, unless the owner requests.

(4) a vessel (except a vessel engaged on a foreign voyage) the keel of which was laid or that was at a similar stage of construction before January 1, 1986, unless—

(A) the owner requests; or

(B) the vessel undergoes a change that the Secretary finds substantially affects the vessel's gross tonnage.

(5) before July 19, 1994, an existing vessel unless—

(A) the owner requests; or

(B) the vessel undergoes a change that the Secretary finds substantially affects the vessel's gross tonnage.

(c) A vessel made subject to this chapter at the request of the owner may be remeasured only as provided by this chapter.

(d) After July 18, 1994, an existing vessel (except an existing vessel referred to in subsection (b)(5) (A) or (B) of this section) may retain its tonnages existing on July 18, 1994, for the application of relevant requirements under international agreements (except the Convention) and other laws of the United States. However, if the vessel undergoes a change substantially affecting its tonnage after July 18, 1994, the vessel shall be remeasured under this chapter.

(e) This chapter does not affect an international agreement to which the United States Government is a party that is not in conflict with the Convention or the application of IMO Resolutions A.494 (XII) of November 19, 1981, A.540 (XIII) of November 17, 1983, and A.541 (XIII) of November 17, 1983.

§ 14302. Measurement

(a) The Secretary shall measure a vessel to which this chapter applies in the way provided by this chapter and the Convention.

(b) A vessel measured under this chapter may not be required to be measured under another law.

(c) Unless otherwise provided by law, the measurement of a vessel under this chapter applies to a law of the United States whose applicability depends on a vessel's tonnage, if that law—

(1) becomes effective after July 18, 1994; or

(2) is in effect before July 19, 1994, is not enumerated in section 14305 of this title, and is identified by the Secretary by regulation as a law to which this chapter applies.

§ 14303. International Tonnage Certificate (1969)

(a) After measuring a vessel under this chapter, the Secretary shall issue, on request of the owner, an International Tonnage Certificate (1969) and deliver it to the owner or master of the vessel.

(b) The certificate shall be maintained as required by the Secretary.

§ 14304. Remeasurement

(a) To the extent necessary, the Secretary shall remeasure a vessel to which this chapter applies if—

(1) the Secretary or the owner alleges an error in its measurement; or

(2) the vessel or the use of its space is changed in a way that substantially affects its tonnage.

(b) Except as provided in this chapter or section 14504 of this title, a vessel that has been measured does not have to be remeasured to obtain another document or endorsement under chapter 121 of this title.

§ 14305. Optional regulatory measurement

(a) On request of the owner of a documented vessel measured under this chapter, the Secretary also shall measure the vessel under chapter 145 of this title. The tonnages determined under that chapter shall be used in applying—

(1) parts A, B, C, E, F, and G and sections 12106(c) and 12108(c) of this title;

(2) section 3(d)(3) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3));

(3) section 4 of the Bridge to Bridge Radiotelephone Act (33 U.S.C. 1203(a));

(4) section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3));

(5) section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183);

(6) sections 27 and 27A of the Act of June 5, 1920 (46 App. U.S.C. 883 and 883-1);

(7) Act of July 14, 1956 (46 App. U.S.C. 883a);

(8) sections 351, 352, 355, and 356 of the Ship Radio Act (47 U.S.C. 351, 352, 354, and 354a);

(9) section 403 of the Commercial Fishing Industry Vessel Act (46 U.S.C. 3302 note);

(10) the Officers' Competency Certificates Convention, 1936, and sections 8303 and 8304 of this title;

(11) the International Convention for the Safety of Life at Sea as provided by IMCO Resolution A.494 (XII) of November 19, 1981;

(12) the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, as provided by IMO Resolution A.540 (XIII) of November 17, 1983;

(13) the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, as provided by IMO Resolution A.541 (XIII) of November 17, 1983;

(14) provisions of law establishing the threshold tonnage levels at which evidence of financial responsibility must be demonstrated; or

(15) unless otherwise provided by law, any other law of the United States in effect before July 19, 1994, and not listed by the Secretary under section 14302(c) of this title.

(b) As long as the owner of a vessel has a request in effect under subsection (a)(1) of this section, the tonnages determined under that request shall be used in applying the other provisions of law described in subsection (a)(1) to that vessel.

§ 14306. Reciprocity for foreign vessels

(a) When the Secretary finds that the laws and regulations of a foreign country related to measurement of vessels are similar to those of this chapter and the regulations prescribed under this chapter, or when a foreign country is a party to the Convention, the Secretary shall accept the measurement and certificate of a vessel of that foreign country as complying with this chapter and the regulations prescribed under this chapter.

(b) Subsection (a) of this section does not apply to a vessel of a foreign country that does not recognize measurements under this chapter. The Secretary may apply measurement standards the Secretary considers appropriate to the vessel, subject to applicable international agreements to which the United States Government is a party.

§ 14307. Inspection of foreign vessels

(a) The Secretary may inspect a vessel of a foreign country to verify that—

(1) the vessel has an International Tonnage Certificate (1969) and the main characteristics of the vessel correspond to the information in the certificate; or

(2) if the vessel is from a country not a party to the Convention, the vessel has been measured under laws and regulations similar to those of this chapter and the regulations prescribed under this chapter.

(b) For a vessel of a country that is a party to the Convention, if the inspection reveals that the vessel does not have an International Tonnage Certificate (1969) or that the main characteristics of the vessel differ from those stated on the certificate or other records in a way that increases the gross or net tonnage of the vessel, the Secretary promptly shall inform the country whose flag the vessel is flying.

(c) For a vessel of a country not a party to the Convention—

(1) if the vessel has been measured under laws and regulations that the Secretary finds are similar to those of this chapter and the regulations prescribed under this chapter, the vessel shall be deemed to have been issued an International Tonnage Certificate (1969); and

(2) if the vessel has not been measured as described in clause (1) of this subsection, the Secretary may measure the vessel.

(d) An inspection under this section shall be conducted in a way that does not delay a vessel of a country that is a party to the Convention.

CHAPTER 145—REGULATORY MEASUREMENT

SUBCHAPTER I—GENERAL

Sec.
14501. Application.
14502. Measurement.
14503. Certificate of measurement.
14504. Remeasurement.

SUBCHAPTER II—FORMAL SYSTEMS

14511. Application.
14512. Standard tonnage measurement.
14513. Dual tonnage measurement.

SUBCHAPTER III—SIMPLIFIED SYSTEM

14521. Application.
14522. Measurement.

SUBCHAPTER I—GENERAL

§ 14501. Application

This chapter applies to the following:

(1) a vessel not measured under chapter 143 of this title if—

(A) the vessel is to be documented under chapter 121 of this title; or

(B) the application of a law of the United States to the vessel depends on the vessel's tonnage.

(2) a vessel measured under chapter 143 of this title if the owner requests that the vessel also be measured under this chapter as provided in section 14305 of this title.

§ 14502. Measurement

The Secretary shall measure a vessel to which this chapter applies in the way provided by this chapter.

§ 14503. Certificate of measurement

The Secretary shall prescribe the certificate to be issued as evidence of a vessel's measurement under this chapter.

§ 14504. Remeasurement

(a) To the extent necessary, the Secretary shall remeasure a vessel to which this chapter applies if—

(1) the Secretary or the owner alleges an error in its measurement;

(2) the vessel or the use of its space is changed in a way that substantially affects its tonnage;

(3) after being measured under subchapter III of this chapter, the vessel becomes subject to subchapter II of this chapter because the vessel or its use is changed; or

(4) although not required to be measured under subchapter II of this chapter, the vessel was measured under subchapter II and the owner requests that the vessel be measured under subchapter III of this chapter.

(b) Except as provided in this section and chapter 143 of this title, a vessel that has been measured does not have to be remeasured to obtain another document or endorsement under chapter 121 of this title.

SUBCHAPTER II—FORMAL SYSTEMS

§ 14511. Application

This subchapter applies to a vessel described in section 14501 of this title if—

(1) the owner requests; or

(2) the vessel is—

(A) self-propelled;

(B) at least 24 meters (79 feet) overall in length; and

(C) not operated only for pleasure.

§ 14512. Standard tonnage measurement

(a) The Secretary shall prescribe regulations for measuring the gross and net tonnages of a vessel under this subchapter. The regulations shall provide for tonnages comparable to the tonnages that could have been assigned under sections 4151 and 4153 of the Revised Statutes of the United States, as sections 4151 and 4153 existed immediately before the enactment of this section.

(b) On application of the owner or master of a vessel of the United States used in foreign trade, the Secretary may attach an appendix to the vessel's register stating the measurement of spaces that may be deducted from gross tonnage under laws and regulations of other countries but not under those of the United States.

§ 14513. Dual tonnage measurement

(a) On application by the owner and approval by the Secretary, the tonnage of spaces prescribed by the Secretary may be excluded in measuring under this section the gross tonnage of a vessel measured under section 14512 of this title. The spaces prescribed by the Secretary shall be comparable to the spaces that could have been excluded under section 2 of the Act of September 29, 1965 (Public Law 89-219, 79 Stat. 891), as section 2 existed immediately before the enactment of this section.

(b) The Secretary shall prescribe the design, location, and dimensions of the tonnage mark to be placed on a vessel measured under this section.

(c)(1) If a vessel's tonnage mark is below the uppermost part of the load line marks, each certificate stating the vessel's tonnages shall state the gross and net tonnages when the mark is submerged and when it is not submerged.

(2) Except as provided in paragraph (1) of this subsection, a certificate stating a vessel's tonnages may state only one set of gross and net tonnages.

SUBCHAPTER III—SIMPLIFIED SYSTEM

§ 14521. Application

This subchapter applies to a vessel described in section 14501 of this title that is not measured under subchapter II of this chapter.

§ 14522. Measurement

(a) In this section, "length" means the horizontal distance of the hull between the foremost part of the stem and the aftermost part of the stern, excluding fittings and attachments.

(b)(1) The Secretary shall assign gross and net tonnages to a vessel based on its length, breadth, depth, other dimensions, and appropriate coefficients.

(2) The Secretary shall prescribe the way dimensions (except length) are measured and which coefficients are appropriate.

(c) The resulting gross tonnages, taken as a group, reasonably shall reflect the relative internal volumes of the vessels measured under this subchapter. The resulting net tonnages shall be in approximately the same ratios to corresponding gross tonnages as are the net and gross tonnages of comparable vessels measured under subchapter II of this chapter.

(d) Under regulations prescribed by the Secretary, the Secretary may determine the gross and net tonnages of a vessel representative of a designated class, model, or type, and then assign those gross and net tonnages to other vessels of the same class, model, or type.

CHAPTER 147—PENALTIES

Sec.
14701. General violation.
14702. False statements.

§ 14701. General violation

The owner, charterer, managing operator, agent, master, and individual in charge of a vessel violating this part or a regulation prescribed under this part are each liable to the United States Government for a civil penalty of not more than $20,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

§ 14702. False statements

A person knowingly making a false statement or representation in a matter in which a statement or representation is required by this part or a regulation prescribed under this part is liable to the United States Government for a civil penalty of not more than $20,000 for each false statement or representation. The vessel also is liable in rem for the penalty.

CONFORMING AND MISCELLANEOUS AMENDMENTS

SEC. 2. (a) Title 14, United States Code, is amended as follows:

(1) In the analysis of chapter 17, add the following after item 663:

"664. User fees.".

(2) In section 651, strike "preceding fiscal year." and substitute "preceding fiscal year, including amounts collected as provided under section 664 of this title.".

(3) After section 663, add the following new section:

"§ 664. User fees

"Amounts collected by the Secretary under section 9701 of title 31 or another law for Coast Guard services shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.".

(b) Title 46, United States Code, is amended as follows:

(1) In section 2101—

(A) between clauses (20) and (21), insert the following new clause:

"(20a) 'overall in length' means—

"(A) for a foreign vessel or a vessel engaged on a foreign voyage, the greater of—

"(i) 96 percent of the length on a waterline at 85 percent of the least molded depth measured from the top of the keel (or on a vessel designed with a rake of keel, on a waterline parallel to the designed waterline); or

"(ii) the length from the fore side of the stem to the axis of the rudder stock on that waterline; and

"(B) for any other vessel, the horizontal distance of the hull between the foremost part of the stem and the aftermost part of the stern, excluding fittings and attachments."; and

(B) add at the end the following new clause:

"(47) 'vessel of war' means a vessel—

"(A) belonging to the armed forces of a country;

"(B) bearing the external marks distinguishing vessels of war of that country;

"(C) under the command of an officer commissioned by the government of that country and whose name appears in the appropriate service list or its equivalent; and

"(D) staffed by a crew under regular armed forces discipline.".

(2) Section 2102 is amended by striking "chapters 43" and substituting "chapters 37, 43, 51,".

(3) In section 2109, strike "This" and substitute "Except as otherwise provided, this".

(4) In section 2110—

(A) strike "examination of vessels" and substitute "examination of vessels under part B of this subtitle"; and

(B) strike "measurement or".

(5) Section 3701 (5) and (6) is repealed.

(6) In section 12102—

(A) insert the subsection designation "(a)" at the beginning of the text of the section; and

(B) add at the end of the section the following new subsection:

"(b) A vessel is eligible for documentation only if it has been measured under part J of this subtitle. However, the Secretary may issue a temporary certificate of documentation for a vessel before it is measured.".

MISCELLANEOUS PROVISIONS

SEC. 3. (a) Laws effective after January 1, 1986, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision of this Act.

(c) An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision of this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by this Act is deemed to have been taken or committed under the corresponding provision of this Act.

(e) An inference of legislative construction is not to be drawn by reason of the caption or catch line of a provision enacted by this Act.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications.

(g) The Secretary of Transportation shall—

(1) Before July 19, 1990, submit to Congress—

(A) a study of—

(i) the impact of applying vessel tonnage determined under chapter 143 of title 46 (as enacted by section 1 of this Act), United States Code, in laws of the United States that contain provisions based on tonnage, including an analysis of the number and types of vessels that would become subject to additional laws or more stringent requirements because of that application; and

(ii) the extent to which the tonnage thresholds in laws of the United States whose application is based on tonnage would have to be raised so that additional vessels would not become subject to those laws if their application is based on tonnage determined under chapter 143; and

(B) a recommendation of the levels to which the tonnage thresholds in laws of the United States whose application is based on tonnage should be raised if a complete conversion to the International Convention measurement system under chapter 143 is made.

(2) in conducting the study under clause (1) of this subsection, consult with representatives of the private sector having experience with the operation of vessels likely to be affected by laws of the United States whose application is based on tonnage.

(3) before July 19, 1988, submit to Congress an interim progress report on the study conducted under clause (1) of this subsection.

REPEALS

SEC. 4. (a) The repeal of a law by this Act may not be construed as a legislative implication that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Revised Statutes

Revised Statutes Section	United States Code	Title Section
4148	46 App.	71
4149	46 App.	72
4151	46 App.	75
4153	46 App.	77
4154	46 App.	81

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		United States Code	
			Volume	Page	Title	Section
1882 Aug. 5	398	2	22	300	46 App.	81
1935 Aug. 27	747		49	888	46 App.	88–88i
1965 Sept. 29	89–219		79	891	46 App.	72, 74, 77, 83–83k
1973 Oct. 1	93–115		87	418	46 App.	86–86i
1976 Sept. 10	94–406	8	90	1236	46 App.	420

Passed the House of Representatives December 2, 1985.

Attest: BENJAMIN J. GUTHRIE,

Clerk.

Senator STEVENS. Admiral Gracey, we welcome you to what I believe will be your last appearance before our Committee as the Commandant of the Coast Guard.

STATEMENT OF ADM. JAMES S. GRACEY, COMMANDANT, U.S. COAST GUARD, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY REAR ADM. DONALD THOMPSON, CHIEF OF STAFF; REAR ADM. J. WILLIAM KIME, CHIEF, OFFICE OF MERCHANT MARINE SAFETY; AND CAPT. KENT WILLIAMS, CHIEF, PROGRAMS DIVISION

Admiral GRACEY. That is correct, sir.

Senator STEVENS. We welcome you here as a friend, and hope that we will see you in other roles in the future. And if those roles require your appearance before this Committee, you will be welcomed as a friend.

Admiral GRACEY. Thank you very much, Senator. I look forward to that.

Senator, if I may, I would like to summarize briefly a statement for the record this morning.

Senator STEVENS. Yes, sir. We will place the statements in the record, as well as all the statements that have been presented to the Committee.

Admiral GRACEY. Thank you, sir.

First, it is always a pleasure to be here with you, and I would like to tell you who I have with me this morning, sir. On my immediate right is Rear Admiral, soon to be Vice Adm. Deese Thompson, who is my Chief of Staff, but who is moving up to be Commander of the Atlantic Area with the blessing of the United States Senate.

On my far left is Rear Adm. Bill Kime, who is Chief of the Office of Merchant Marine Safety. And on my immediate left is Capt. Kent Williams, who is Chief of the Programs Division.

I would like to express support for passage of H.R. 1362, which would complete the codification of subtitle II of title 46, U.S. Code, regarding load lines of vessels, and part J regarding measurement of vessels. We are convinced that H.R. 1362 will be to the advantage of the United States, the marine industry, and the Coast Guard, and I recommend that the Committee give it favorable consideration.

Our fiscal year 1987 authorization request, as you noted, totals $2.3 billion and it is a no-growth budget. It will fund essentially the same program levels as the President's 1986 budget request. The operating expense appropriation part of that request is the lifeblood of the Coast Guard. More than any other appropriation, it is the ultimate determinant as to how well and to what extent Coast Guard missions will be performed.

Our request is for $1.833 billion, to be augmented by $30 million from the boat safety account. Under existing law, $15 million is the maximum amount that can be transferred between these two appropriations, but the authorization legislation being proposed would increase that authority to $30 million.

The AC&I appropriation request for $77.1 million in budget authority, together with other resources proposed for reprogramming from the Coastal Defense Augmentation Account created in DOD in 1986 will fund major capital improvements.

We are not requesting any funds for the alteration of bridges next year.

The retired pay appropriation request of $354 million is based on an average of 24,673 annuitants on the rolls—I do not know whether that includes yours truly or not, sir, but maybe it will be 24,674.

The research, development, test and evaluation request totaling $20.5 million is consistent with the level appropriated infiscal year 1986.

The proposed bill would also make several technical corrections to subtitle II oftitle 46, and would authorize certain other Coast Guard activities. The request is similar to H.R. 4208, but there are some sections of H.R. 4208 with which we disagree.

The dollar amounts shown insection 2 of that bill should be adjusted to the amounts requested by the President.section 5 proposes to limit the contracting performed by the Coast Guard so as to maintain what is called a "core" logistics capability and prohibits contracting out at Coast Guard facilities at Curtis Bay, MD, and Elizabeth City, NC.

We are opposed to section 5 of H.R. 4208 because it would impose limitations on our ability to operate Coast Guard facilities in the most efficient and most flexible manner. I am also concerned about section 9 stating a policy on the use of Coast Guard auxiliary facilities. My concern is that section 9 will be construed as legislating how my operational commanders are to do their jobs. To that extent, section 9 would confuse clear-cut delegation of authority and I think have a distinct possibility of eroding command responsibilities, so I cannot support it.

I do want to add, however, Senator, that I think my personal record is clear. There is no stronger supporter of the Auxiliary anywhere than I am and have been for my entire career, so I want the record to show clearly that my concern is not in any way intended to put the Auxiliary in a box; it is merely to preserve our command lines of authority.

Although this 1987 proposal represents a hold-the-line type of budget, I want you to know, as I think you do know because you know us very well, that we are going to keep trying for productivity improvements and increased efficiencies, and find, if it is possible, ways to use our resources more effectively.

But even in these difficult times, we are going to keep serving this Nation proudly and well. At times, the Coast Guard may be in fewer locations, we may be there with fewer people and resources depending on what happens with the budget situation, but be there we will, and we will be there with our essential character unchanged doing our primary missions and doing it the best we can.

And, Senator, as you know, that best is without equal anywhere in the world.

That concludes my statement, Senator. I will be happy to answer your questions.

Senator STEVENS. Thank you. The Magnuson Act requires that we assert our jurisdiction over salmon stocks in their full migratory range, and that act also requires fees to be imposed on foreign fishermen for the costs of enforcing the Act to the extent that those costs relate to foreign fleets.

Have you discussed the inclusion of high seas' enforcement costs in the fee calculation with the National Marine Fisheries Service?

Admiral GRACEY. No, we have not yet discussed it with them, Senator. The fee schedule for next year is in its formative stages, and we do fully expect that the cost for the high seas salmon enforcement will be included.

Senator STEVENS. The Japanese have agreed to only one observer, and they have indicated that they will provide some enforcement. Do you expect to have a U.S. enforcement vessel in the area of the Japanese land-based driftnet fishery for this season?

Admiral GRACEY. Yes, sir, we do. We will have one there from the start of the season up through the end, which is I believe July 23rd. We will also be scheduling on a dedicated basis two aircraft surveillance flights a week.

Senator STEVENS. That is good. I would hope that we would not let the Japanese refuse to pay for our enforcement efforts as long as they cannot conduct strict enforecement and object to an adequate observer program. So I urge you to ask the National Marine Fisheries Service to include the cost of your enforcement activities in the fees.

Admiral GRACEY. We will do that, sir. I should have mentioned that there is a provision for an exchange of observers between us and the Japanese as part of this program.

Senator STEVENS. I do get a little provincial once in awhile, Admiral.As I understand it, there is a dispute within the Coast Guard concerning the 17th District. Can you tell me what is the status of the proposal to shift the district civil engineers to the Facilities Design and Construction Centers?

Admiral GRACEY. Yes, I can tell you that, Senator, but it comes as a surprise to me that it is a dispute within the Coast Guard unless by that you mean to indicate there are some differences of opinion as to whether it is a good idea or not. If that is what you mean, that is——

Senator STEVENS. I should think anyone who has duty in the Coast Guard that permits them to live in Juneau, AL, might be a little disturbed if they have to move, Admiral.

Admiral GRACEY. Absolutely, sir. I fully understand that. I lived in Yakutat for a year and they had to tear me away.

The situation, Senator, is that we have been trying to find ways to continue our level of operations as high as possible within the current budget situation, and I do not just mean the dip that we are in this year, but I mean the whole current national situation. We have about 12 or 13 different initiatives that we are looking at. One of them is the suggestion that we might regionalize the civil engineering offices.

The proposal would not totally strip the current district offices. It would leave basic staff there for day-to-day operations, day-to-day requirements, and then we would have three regional offices. We have done that with our AC&I work, as you may remember. Four years ago when I first came in we set up regional offices, one east coast, one west coast, and it has worked very well. But the current idea has not even reached my desk yet, Senator. It is in the proposal stage. We are looking at it .

What created the concern you heard was that we sent out a message that said, "hold off on hiring any more civil engineering personnel until we find out whether we are going to suggest going forward with regionalization or not." In hindsight that was probably something we should not have done. It got a lot of people concerned.

Senator STEVENS. I am not being facetious, but if it is an economy move it would seem that it would be better to move those people closer to where the work is. We have half the coastline of the United States, and most of the work that they are doing is up around the Aleutians—at least that is the way I understand it. To move them further south, and then have them come up on temporary duty into Alaska to perform does not seeem cost effective. They are engineers, as I understand it. If I am correctly informed they are basically working from Curdova out to the end of the chain, and north of the chain.

Admiral GRACEY. Senator, first of all let me repeat that the whole office will not be moved, just some portion. Admittedly there will be more than half. I guess, that is a large number that would be moved. The location of the office that would be created has not been decided yet; but tentatively we have talked about Seattle. Again, however, I want to emphasize that this decision has not even reached my desk yet. The regional office would be responsible for everything in the Pacific Basin.

We are talking about Hawaii. We are talking about the whole West Coast of the United States, as well as Alaska. So they will be traveling south and west as much as they will be traveling north.

Senator STEVENS. I did not understand that consolidation. I would be pleased if you would keep us advised.

Let me turn to the key item, that is the assumption that OMB would prevail and we would defer $190 million out of the Coastal Defense Augmentation Fund. We have recently reached an agreement which I understand OMB concurs with, that money will not be used in the 1987 AC&I account.

Under those circumstances, what are the Coast Guard's needs for capital in 1987? Is the $77 million sufficient?

Admiral GRACEY. Senator, no. All by itself, the $77 million is not sufficient for 1987. It is going to require some addition. That figure was proposed by the President in his budget request on the assumption that there would be some reprogramming. So by itself it will not be sufficient.

As I understand, there has been some negotiation between OMB and people up here at the Senate on the idea that there would be some adjustments. The last figure I heard was about $238 million. That will let us keep our high priority programs going—that is, the big projects, the big dollar projects—and still have a little bit of room left for some of the shore projects.

Senator STEVENS. Well, I understand the figure of $240 million is probably the figure that OMB would agree to for 1987, instead of $77 million. Is that your understanding?

Admiral GRACEY. That is the 1986 figure. I understand the 1986 figure was about $238 million, Senator. OMB, as far as our work is concerned, is still thinking in terms of $267 million for 1987. That is the program level.

Senator STEVENS. Two sixty seven?

Admiral GRACEY. Two sixty seven million dollars for 1987, and $238 mil~~lion~~ for 1986.

Senator STEVENS. We have before us in the Appropriations Committee a supplemental request for the Coast Guard. I understand the House provided $35 million in new money. There has been a $10.4 million shift from the AC&I account to operations. That was part of the Secretary's statutory authority and I understand she has done that, so that roughly leaves us with about $35.6 million that you need.

What is going to happen if we do not have the supplemental funds from new sources?

Admiral GRACEY. Well, the original proposal, Senator, was for a zero sum supplemental. That is, to move things around within function 400 within the Department of Transportation.

Senator STEVENS. I hate to have to correct you, but that is the staff's suggestion in the Appropriations Subcommittee on Transportation.

Admiral GRACEY. Sir?

Senator STEVENS. That is the staff suggestion that has been delivered to us from the Appropriations Subcommittee on Transportation that you be provide with $25 million of the $35 million request to be funded from existing monies derived from non-Coast Guard sources.

Admiral GRACEY. Yes, sir, that is correct. I guess I did not word it correctly. What I meant to say was that the proposal that came up from the administration was to have a zero sum supplemental—that is, to move things around within the Department of Transportation. Of that, we would have paid $10.4 million, plus another $6 million that would have been transferred elsewhere. So within that DOT zero sum supplemental, the Coast Guard was paying almost $17 million.

What will happen, Senator, depends on when it happens, and what is going to come next. We derived that request of $46 million in the supplemental need based on our best estimate of how close we could come to absorbing the $142 million that we started off this year below the request. That is $30 million that was cut as a result of congressional action, another $36 million that was as the result of a pay raise. Like the other military services, we got a pay raise; unlike the other military services we did not get money to go with it. So we had to absorb it. The others got a supplemental; we did not. So that put us $66 million in the hole.

Then there was $76 million in an across-the-board Gramm-Rudman cut. That puts us $142 in the hole. Last year when the Senate voted a $230 million cut for the Coast Guard, I put into effect a slow-down/squeeze-down. We cut fisheries patrols in half, cut out all routine patrols, cancelled all kinds of routine maintenance contracts, stopped buying spare parts, the whole bit.

We figure that the closest we can come to absorbing the whole thing is about $96 million. That would be done through deferrals. It is not savings. Some of that is saved fuel. Obviously, if you do not run you save fuel; but most of it is deferrals. That is where we arrived at the $46 million. We have kicked in a quarter of that ourselves on the $10.4 million, so that leaves $35 million that you talked about.

If we do not get the $35 million, $36 million, what will happen depends on when we find that out, but as it is, the slow-down/squeeze-down will last all year. We will have further recruiting reductions. Sooner or later we are going to have to start tying up ships and grounding airplanes, because something is going to break down and we are not going to have the money to buy the parts, and we are just going to have to say, "Okay, tie that one up, take all the money and move it over and keep the rest running." We are into that kind of a situation.

We do not know when it is going to happen. It could happen tomorrow. The *Challenger* disaster cost us $2 million that we did not expect. Our operation afterwards was unfunded. The Statue of Liberty operation will cost well over $1 million. That is unfunded. We are absorbing things right and left, and we are trying like a son of a gun to make it through this dip year.

I think my troops have done an absolutely magnificent job of tightening the belt—not tightening the belt but strangling themselves—to try to keep this going. We are talking about $36 million. My goodness gracious. What is that, 1/10 of 1 percent of the whole DOT budget, one-thousandths of 1 percent of the DOD budget. We are talking peanuts here. Excuse me for getting emotional on the subject, Senator, but I think the Coast Guard has been battered and bruised over the last several years.

Senator STEVENS. I think so, too. I think it is time we revisited the whole concept. Your people wear uniforms and are a part of the defense structure, and yet they have been left out of any of the modernization program for defense, except the supplemental funding from the augmentation accounts in 1981, 1983, and 1985. It seems to me that we have to find some way to put this defense portion of your budget into a different funding mode.

We have made an agreement to do that, as you know, but the agreement is that that we will not do it on an unauthorized basis. But we will pursue the authorization issue for the future, I can assure you that we are going to emphasize the defense role of the Coast Guard.

Admiral GRACEY. Senator, if I might respond to that point, there is one thing. You have heard me say it before, and forgive me for beating it to death, but our problem at the moment is operating expense, not capital money.

Senator STEVENS. I understand that. I think we all do.

Admiral GRACEY. Okay.

Senator STEVENS. We thought we were going to take the burden off your account by incorporating a portion of the monies normally available for capital expenses could be shifted to operation and maintenance, but it did not work.

Admiral GRACEY. We are limited. We have moved all we can, which is the $10 million.

Senator STEVENS. Senator Inouye.

Senator INOUYE. Thank you very much, Mr. Chairman.

Mr. Chairman, I wanted to be present this morning to demonstrate my gratitude and the gratitude of the people of Hawaii for the Coast Guard. It is an important part of our life in the Islands, so here I am to say thank you very much, sir.

Admiral GRACEY. Thank you, sir.

Senator INOUYE. I have just one question. In recent weeks I have been receiving, oh, dozens of letters on boating safety trust funds, and apparently the administration is now proposing to reduce the allocation by $15 million, and transfer an equal amount to the Coast Guard account.

Many of your supporters are now against this proposal. What have you to say about this?

Admiral GRACEY. Well, Senator, I must say that in the existing circumstances I am delighted that it is being proposed, and I hope it goes. Let me explain that.

Until last year, the amount of money available for transfer to the states each year under programs in which we work with them was $15 million. That is what the law allows; $13 million-and-change has been sent out to the states each year. Last year the figure was raised to $30 million for the first time.

In the current budget situation, the proposal for 1987, we all took a look at that down the hill and noted that we spend something close to $200 million a year on miscellaneous programs which directly accrue to the benefit of boaters. I am talking about aids to navigation, search and rescue, all of those. We thought that with the budget as tight as it is, that that extra $15 million that went out to the states last year could probably be better spent, or we could apply it better against those programs which operate are to the benefit of the boaters.

That is why we propose to bring the $15 million back. It would be added on to our operating expense monies. The effect would be that instead of $1.83 billion, it would be $1.86 billion. That would get us back to about where we were last year in total Coast Guard operating capability.

Senator INOUYE. Do you have anything to say about the boating safety programs that several states carry on at this time?

Admiral GRACEY. I do not have the information at my fingertips, Senator, about the individual states' programs, but I can comment in general: the work of the states, and our work with the National Association of State Boating Law Administrators, and those kinds of groups, has been very rewarding.

We would not be making it in boating safety without them. Some states have better programs than others, but they have almost totally taken over on-the-water enforcement. The only enforcement of that sort we are doing occurs when we have an assistance case or a rescue case. Then we do an inspection on the spot. Our Coast Guard Auxiliarists of course are very active in courtesy examinations. But in terms of enforcement, that is almost entirely being done by the states.

We have training programs for the state officers. We provide that at our training center in Yorktown. There is a very close relationship between the state officials and the Coast Guard.

Senator INOUYE. Admiral, you mentioned several unbudgeted items such as the Statue of Liberty account and the *Challenger.* Would you also put the drug interdiction program in that category, too?

Admiral GRACEY. No, sir. Now I am going to be hoisted by my own petard, I guess, because I am going to state to you that the drug enforcement program is in direct tie-in with our statutory mission of law enforcement. What we were created for originally was law enforcement.

The reason I say I am talking against myself a little bit is that so is assistance to other agencies, and rescue work, and taking care of major events like the Statue of Liberty. So I suppose they could all fall in the same category.

We are putting a great deal of effort into, and a big proportion, about 30 percent of our operating costs, are going into drug interdiction and other law enforcement. We have had some additions to our funding. We have done some rearrangement of priorities. A recognition of that was that some of our capital hardware has been increased. There is a recognition that there is a direct tie-in between it and our defense capability. You stop a smuggler today, you stop some other enemy tomorrow. So there is a direct tie-in.

I should have also mentioned the Haitian migrant interdiction operation. That has never really been funded, but it has been going on for several years now. Operations like that are different from the *Challenger* aftermath. One is a special event that occurred. Consider that tidal wave that missed Hawaii and Alaska last week. Had it turned out to be as was originally predicted with a 20- or 30-footer coming ashore, Lord knows what it would have—aside from the human devastation to Hawaii and all of those States on the West Coast—Lord knows what it would have cost us in terms of operating dollars and in lost equipment.

The point I am trying to make is that these things come along, and events happen. Who would have predicted the *Challenger* would explode and take a $2 million operation for us? Usually it is about a

$15,000 operation, and NASA reimburses us because it is a scheduled kind of thing.

Senator Inouye. I thank you very much, sir.

Thank you, Mr. Chairman.

Senator Stevens. Thank you, Senator.

Senator Gorton?

Senator Gorton. I believe Senator Trible was here first.

Senator Stevens. Senator Trible.

Senator Trible. Thank you, Mr. Chairman.

Thank you for your leadership and your hard work, and to all of our citizens, and certainly to the citizens of Virginia. Let me pursue a line of questions raised by the Chairman at the outset.

Last October I introduced S. 1764, which would require emergency position indicating radio beacons, EPIRBs, on fishing vessels. These beacons, as you know, would allow the Coast Guard to track troubled ships by land, airborne, or satellite radio. These homing devices are inexpensive. They cost only a few hundred dollars, and yet they can be invaluable if a vessel is in distress.

Does not the Coast Guard require these beacons on most commercial vessels today?

Admiral Gracey. Yes, sir, they are required on most that fall under our oversight.

Senator Trible. Have they proven their effectiveness in their actual use on these vessels?

Admiral Gracey. They have proven their effectiveness not only on those vessels, but on all other places where they have been used, Senator, and we have actively encouraged—whether we have regulatory authority on the situation or not, including fishing vessels—we have actively encouraged people, recreational boaters as well, to have EPIRBs.

Senator Trible. This matter came to my attention when a fishing vessel, the *Amazing Grace*, sunk off the coast of Delaware, Maryland, and Virginia. A crew of seven lost their lives. The Coast Guard undertook an extensive search and rescue mission. The National Transportation Safety Board investigated this catastrophe thereafter and concluded that the seven crew members could well have been saved if the vessel had an EPIRB on board. The cost of that search and rescue mission was listed as $12 million.

If we require fishing vessels to carry this modern equipment, in your judgment would it render your search and rescue operations more effective and efficient? Would it save more lives and more vessels?

Admiral Gracey. There is no question that if EPIRBs—effective, proper EPIRBs—were universally used our search and rescue efforts would be significantly helped, and in my mind there is no doubt that there would be fewer lives lost.

Senator Trible. The Transportation Safety Board has recommended that this be done. My bill, S. 1764, proposes that fishing vessels carry EPIRBs, and I know that the Coast Guard have recommended this be done in the past. Do you support that legislative initiative?

Admiral GRACEY. Yes, sir.

Senator TRIBLE. Good. I would urge my Chairman to consider making that legislation a part of this authorization bill, and will look forward to working with him as this bill is fine-tuned. Thank you for the opportunity to pursue that matter, and I will yield to my distinguished colleague from the West.

Senator STEVENS. If I may, Senator Gorton, let me say that we intend to include Senator Trible's bill. We will send out notice of Senator Trible's bill for comment. I think it should be relatively noncontroversial, as I understand it. So we will include the legislationt, subject to of course the action of the full Committee.

Senator Gorton.

Senator GORTON. Thank you, Mr. Chairman.

Thank you. I want to join with all of my colleagues in welcoming you here and expressing to you how grateful we are for the services that the Coast Guard provides. I suspect it is no accident that members of this subcommittee represent coastal states, which are very dependent upon the Coast Guard for safety and regulatory purposes, and for law enforcement purposes.

I want to join with the Chairman in stating that it is unfortunate in some respects that your budget is included within that of the Department of Transportation, and not a part of the budget for national defense. You might well do better under the latter circumstances.

I do hope that we are going to be able to deal more favorably with the Coast Guard this year than we were last yearbecause, paradoxically perhaps, of Gramm-Rudman and the set of definitions, requirements, and discipline which it requires of us. Certainly through the Budget Resolution passed by the Senate we have done so.

My only question probably repeats something which Senator Stevens was covering just about the time I arrived. I simply want to make certain that the problems which you were discussing, which may cause you to tie up some ships, relate to fiscal year 1986, and to the challenges which were presented to you by the across-the-board 4.3 percent Gramm-Rudman cut on the first of March. Is that correct?

Admiral GRACEY. Partially, Senator. The problem that was presented to us went beyond the 4.3 percent cut. That about doubled our problem. We started off the year $30 million in the hole because the Senate—the original proposal was to cut us $230 million, as you remember. That wound up at $30 million, and then we had to absorb a pay raise. The other military services got supplemental funding for it. We did not. So it cost us $36 million more.

So, with the $76 million G-R-H cut we were $142 million in the hole. It will be a dip. What I keep telling my troops, Senator, is that what we are trying to do is bridge a gap here between 1985, the end of 1985 and into 1987. The President's proposal for 1987 would put us at a level which in buying power is about equivalent to where we were last year. It is a no-growth budget. It looks like big numbers, but it is only big numbers because it starts from way down, and some of it is money that would be transferred back from DOD.

But we are trying to get across that gap. Now if the President's figure for us is going to pass, and if we can avoid further across-the-board cuts, Gramm-Rudman cuts, in the fall, and if we can get a little bit of help with a supplemental, then we are going to be all right. We will have to make up. We have deferred about $90 million worth of maintenance, and buying parts, and so forth, this year. That is going to have to be made up next year. So the effect is not going to be as rosy as it would look like. But for all intents and purposes, we would be back to ops normal.

I have to tell you that I was delighted when I saw the Senate Budget Resolution. However, I went into an absolute state of shock when I heard that the House Budget Committee yesterday had us $250 million below the President's figure. That is even worse than what happened up here in the Senate last year, and it absolutely boggles my mind since the House of Representatives voted 400 to 6 to support the Coast Guard last fall, and just voted last week 374 to 0 in favor of our authorization bill.

So if we seem to be a little paranoid, or a lot paranoid, Senator, perhaps you can understand. We are being whipsawed. But the answer to your question is this: if the President's budget for us passes, and you can avoid further G-R-H across-the-board cuts, and you can get us a little bit of help on the supplemental, we will be okay. We will make it.

If we do not, it depends on how big the action is. If the President's budget does not go, or there is a number anywhere near like what the House talks about being below—that is, the Budget Committee over there talks about being below, then we are going to be into the same thing we were into last fall, only worse, because that is going to compound the $142 million problem we have this year. God knows what the impact would be. My successor is going to have to tell you that; I cannot.

I can tell you that we hope to get through this year without any planned shutdown. We are going to keep the slow-down/squeeze-down going, and we may have to tie up something and just not operate it at all, move all the money over to somewhere else. But in terms of permanent shutdowns, our hope is to get through this year without it.

Senator GORTON. I am sure, Admiral, you will forgive what is less a partisan than an institutional comment, that the Senate Budget Committee attempts to write budgets, and the House Budget Committee attempts to write political documents to respond to it. I hope we will do better with you by the time that you are finished. Perhaps I can ask the Chairman a question, if I may.

Am I correct that you have persuaded the Administration to withdraw one of the deferrals which had been proposed in connection with capital funds for the Coast Guard?

Senator STEVENS. Yes. We announced that at the beginning. There is an accommodation, and the Admiral's people know about it. It does give us a problem as we face the 1987 budget, but that has been worked out with regard to the 1986 funding.

Senator GORTON. I truly commend the Chairman for that. Is it also the case that the Senate supplemental will take care of at least some of the most severe and pinching of the operating problems which the Coast Guard will face for the balance of this fiscal year?

Senator STEVENS. We will know that soon.

Senator GORTON. Well, I hope you are equally successful at that, Mr. Chairman. I thank you very much.

Senator STEVENS. Thank you very much. Thank you, gentlemen.

[The statement follows:]

STATEMENT OF ADMIRAL JAMES S. GRACEY, U.S. COAST GUARD, DEPARTMENT OF TRANSPORTATION

Mr Chairman, I am pleased to have the opportunity to meet with you and other members of the committee to review and discuss H.R. 1362 dealing with load lines and measurement of vessels, and the Coast Guard fiscal year 1987 budget authorization proposal. I have accompanying me this morning my Chief of Staff, Rear Admiral Donald Thompson; the Chief of the Office of Merchant Marine Safety, Rear Admiral J. William Kime; and the Chief of the Programs Division, Captain Kent Williams.

H.R. 1362

First, I would like to express support for passage of H.R. 1362, which will complete the codification of subtitle II of title 46, United States Code, as part C, load lines of vessels, and part J, measurements of vessels.

Part C provides a single legal basis for all load line regulatory actions while maintaining recognition of the current international convention. It also provides for a uniform exemption authority by authorizing the Secretary of Transportation to prescribe regulations specifying conditions under which domestic voyage exemptions would be issued without lowering the level of safety.

Part J implements the provisions of the International Convention on Tonnage Measurement of Ships, 1969, which was ratified by the Senate in 1982 and which took effect in the United States in 1983. It will enable the Coast Guard eventually to substitute this system as the basis for establishing the official tonnage of vessels measuring 79 feet and larger. A regulatory tonnage provision is included which enables a vessel also to be measured under the current systems. This provision will alleviate domestic and international regulatory impacts as a result of changing the basic tonnage measurement system.

We understand that the Panama Canal Commission will provide the committee with a report proposing two technical changes to H.R. 1362. The Department has reviewed these technical changes and supports them.

For the first time a single, internationally recognized, reliable, and uniform system will be provided for establishing gross and net tonnages which will enable Congress and regulatory agencies to establish tonnage parameters for application of rules for vessels with the confidence that the tonnages will always represent the sizes of the vessels. It also provides for charging fees for tonnage measurement.

We are convinced that H.R. 1362 will be to the advantage of the United States, the marine industry, and the Coast Guard, and I recommend that this committee give it favorable consideration.

FY 1987 AUTHORIZATION REQUEST

Our fiscal year 1987 authorization request totals $2.3 billion. It allows a continuation of plans to modernize and improve the effectiveness of the Coast Guard's capital plant; to increase the capability of existing resources; and to achieve savings through improved efficiency of operations and, where feasible, continued contracting out of support activities.

This request . . . like our requests in recent years . . . continues to emphasize missions supporting safety, defense readiness, and maritime law enforcement. Funding requested will provide for full-time equivalent (FTE) positions for 38,541 military personnel and 5,527 civilian personnel.

Because of some unique funding transfers in FY 1986, this year's request shows an apparent increase in budget authority. Nevertheless, it is a no-growth budget and will fund essentially the same program levels as the President's FY 1986 budget request. Part of the increase in FY 1987 budget authority reflects a return to the Coast Guard's budget base of $25.5 million of the fixed costs associated with polar icebreaking operations. These costs were funded previously through reimbursements from other Federal agencies. The increase also reflects restoration to the Coast Guard's budget base of $100 million for defense readiness funded by the Department of Defense, Navy, Operations and Maintenance in 1986. The increase also includes annualization of funding for the FY 1986 military pay increase.

OPERATING EXPENSES

The operating expenses appropriation request for $1.833 billion is to fund the operation and maintenance of Coast Guard ships, aircraft, and shore units, including facilities acquired through capital investments in recent years. Of these new acquisitions, funding will provide for operation of the first of the Coast Guard owned aerostats. . .mobile, tethered-balloon, radar surveillance systems. . .for use in our drug interdiction effort. Also, in FY 1987 we will put into service 2 more of our new 270-foot medium endurance cutters and 5 more of our new 110-foot patrol boats, as well as 26 additional short-range recovery (SRR) helicopters.

In addition, the total amount for operating expenses will be augmented by $30 million to be derived from the boat safety account. Under existing law, $15 million is the maximum amount that can be transferred between these two appropriations. However, the authorization legislation being proposed would increase that authority to $30 million through a reallocation of the funds in the boating safety account of the aquatic resources fund.

ACQUISITION, CONSTRUCTION AND IMPROVEMENTS

The acquisition, construction and improvements appropriation request for $77.1 million in budget authority, together with other resources proposed for reprogramming from the coastal defense augmentation account created in DOD in 1986, will fund capital improvements, including aircraft procurements; cutter acquisitions, rehabilitations, and modernization; and replacement and renovation programs at selected shore facilities.

ALTERATION OF BRIDGES

No funds are being requested for alteration of bridges for FY 1987.

RETIRED PAY

The retired pay appropriation request of $350 million is based upon an average of 24,673 annuitants on the roll. The request reflects the President's legislative proposal to forego cost-of-living adjustments in 1987 for all such retirement programs.

RESEARCH, DEVELOPMENT, TEST & EVALUATION

The research, development, test and evaluation request totaling $20.5 million is consistent with the level appropriated in fiscal year 1986. This appropriation is directed towards improving the execution of existing missions and programs along with developing the capabilities anticipated for future mission requirements. Research and development offers the opportunity for increased returns in future years through enhanced productivity or cost avoidances.

OTHER PROVISIONS

In addition to providing authorization of the Coast Guard's military personnel "end strength" and "average military training load", the proposed bill would make several technical corrections to subtitle II of Title 46 U.S. Code. It would also authorize the lease and improvement of docking facilities in New Bedford, Massachusetts; would authorize the contract for electricity on St. Paul Island, Alaska without first notifying Congress; would authorize a combined Federal and local road improvement project in Cape May, New Jersey; and would give the Secretary of Transportation regulatory authority for the entire subtitle II of Title 46, U.S. Code.

The authorization request I have just described is similar in many respects to H.R. 4208. However, there are a few sections of H.R. 4208 with which we disagree. . .or, in some cases, see as unnecessary. We believe the dollar amounts shown in section 2 should be adjusted to the amounts requested by the President for FY 1987. With regard to the sections which follow, one of our key concerns is section 5, which would impose limitations on our ability to operate Coast Guard facilities in the most efficient manner. Section 5 proposes to limit contracting performed by the Coast Guard so as to maintain what is often called a "core" logistics capability and prohibits contracting out at Coast Guard facilities in Curtis Bay, MD., and Elizabeth City, N.C.

As you know, the President is strongly committed both to strengthening the defense readiness of this country and to reducing the size . . . and cost . . . of Government. Those goals area not incompatible. Over the past four years. I have overseen a significant increase in the Coast Guard's defense readiness capabilities. Our maritime defense zone role, a growing reserve strength, new and more capable hardware, more realistic training, enhanced exercise participation, and so on . . . All speak to our continuing commitment to defense readiness. At the same time, we have also undertaken a number of efforts to be more productive . . . and to help ease the burden to the American taxpayer . . . by greater use of private sector capabilities. Such initiatives have included: an aggressive A-76 contracting out program that has become a model in the Department of Transportation . . . a specific mandate to hand off non-emergency assistance cases to qualified private firms when available . . . a similar policy regarding domestic icebreaking . . . and an effort to contract routine maintenance of aids-to-navigation in non-critical waterways. The underlying philosophy governing these initiatives has been to do them only when they meet all of the following conditions: not inherently governmental in nature; do not jeopardize Coast Guard operational capabilities; do not impact adversely on readiness requirements such as mobilization, force structure and sea-shore rotation; and can be done more cost-effectively by the private sector.

I believe our record speaks for itself: it is possible to strengthen defense and other Coast Guard capabilities while also reducing the cost of Government. We need the ability to continue to pursue both these goals. In that regard we oppose section 5 of H.R. 4208 because, as I said, it would impose limitations on our ability to operate Coast Guard facilities in the most efficient manner.

I am also concerned about section 9, stating a policy on the use of Coast Guard auxiliary facilities. First, let me make the record clear . . . nowhere will you find a stronger supporter of our Coast Guard auxiliary than I. I have been touting the valuable contributions and cost effectiveness of these dedicated volunteers throughout my career.

My position on that will never change. My concern is that section 9 will be construed as legislating how my operational commanders are to do their jobs. In our business of search and rescue and maritime safety, the operational commander is the one charged with making the decisions that ultimately result in the rescue of property. . . and saving lives. He or she must have full freedom and flexibility to use all of the resources at his or her disposal. . . Coast Guard regulars, reservists, and auxiliarists, commercial firms or private volunteers. . . as he or she sees best to meet the situation at hand. At such times, that Commander does not need any extra pressures or doubts resulting from legislation that directs priorities in the application of available resources. No. . . what my operational commanders need is the knowledge that they have our trust and confidence. . . as on-scene professionals. . . to use all available resources. . . people and equipment. . . to get the job done. . . and done the best and most cost-effective way possible, given the exigencies of the moment. To the extent that section 9 would confuse that clear cut delegation of authority and erode my command responsibilities, I cannot support it.

The Coast Guard has additional concerns with H.R. 4208 which will be included in a report by the administration giving its position to the Senate on this bill.

CONCLUSION

I have briefly highlighted major parts of our FY 1987 authorization proposal which supports another "hold-the-line" type of budget. However, we will continue to strive for productivity improvements, increased efficiencies, and more effective use of our resources, including those new and improved resources acquired as a result of recent major capital investments. . . the new 110- and 270-foot cutters, the 210-foot and 378-foot cutters rehabilitation and modernization programs, our new short-range recovery helicopters and sensors like FLAR and Aireye. These investments will make the Coast Guard even more productive in the years to come. . . and able to serve the American people better.

The President strongly supports the Coast Guard and the benefits and services it provides to the public. Our budget request reflects his concern over the impact of across-the-board, percentage type reductions on personnel intensive, operational agencies like the Coast Guard, whose missions are vital to the security and safety and health of America. I hope the Congress will support the President's request level.

But, even in these difficult fiscal times, the Coast Guard will continue to serve this Nation proudly and well. At times, it may be in fewer locations. . . it may be with fewer people and resources. . but be there it will. . . and with its essential character unchanged, still doing its primary missions of marine safety, defense readiness, and maritime law enforcement the best it can. And that best is without equal—anywhere.

This concludes my statement. I will be happy to respond to any questions the committee might have.

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR HOLLINGS AND THE ANSWERS

Question. I understand the Coast Guard classifies its search-and-rescue cases according to their relative seriousness. Could you indicate the various categories of cases and how you differentiate one category from the other? For which of these categories does the Coast Guard have a preference in favor of commercial towing companies?

Answer. The Coast Guard Search and Rescue data reporting system collects information on the degree of danger that "actually" existed. This is an "after-the-fact" determination once a search unit has arrived on scene, and has no correlation to whether or not the incident was referable to a private firm.

0—None—No foreseeable threat to life or property.

1—Slight—No threat to life or property upon arrival on scene. However, had action not been taken the situation may have resulted in a threat to life or property.

2—Moderate—A threat to life and/or property existed. Reasonable to assume that personnel and/or property would have been seriously injured, damaged, or lost had not action been taken.

3—Severe—Personnel and/or property were either physically rescued/recovered from imminent danger, or were actually lost.

Incidents referable to commercial assistance are called non-emergency assistance cases and are defined as "no reasonably foreseeable threat to life." The determination as to whether or not a case falls into this category is made by the local commander on scene based on the best information available at the time a call is received. Operational experience rather than a set of rigid guidelines is the criterion for deciding the most appropriate response to ensure safety of life and propery. Each case is unique and has its own set of circumstances.

Question. Regarding possible Congressional changes to your towing policy, your statement argues against tying the hands of the Coast Guard's operational commander who is responsible for deciding appropriate uses of the various resources at his disposal, from Reservists and Auxiliarists to commercial towboat operations. Isn't it true that your towing policy has altered the operational commander's flexibility in using those resources?

Answer. No. It has long been Coast Guard policy not to compete with private enterprise except in unusual circumstances or where necessary to prevent loss of life or property. The Coast Guard policy on non-emergency assistance provides general guidance and procedures, not specific directions, in handling these cases while ensuring the operational commander continues to have the latitude to use his or her best professional judgement.

Question. How much appropriated funding has the Coast Guard provided for the Auxiliary each year since adopting its policy in favor of commercial towing services for non-emergency rescue cases? Does the Coast Guard's policy save money for the U.S. government? If so, how much?

Answer. Auxiliary funding was $5.2 million in fiscal year 1983, the year the Commandant promulgated policy and procedures for handling of non-emergency assistance cases; $6.3 million in 1984, and $6.5 million in 1985. No changes in Auxiliary funding were linked to the assistance policy. The funding is for training, administrative and operational support of the Auxiliary.

The Coast Guard's policy doesn't result in net savings for the government. While there are some savings in fuel costs on cases not directly handled by the Coast Guard, resources must remain in place to coordinate responses, monitor cases, take over if necessary and perform other Coast Guard missions. The search and rescue network of resources must be maintained in readiness posture, capable of responding 24-hours a day. The minimal fuel cost savings resulting from the Auxiliary not handling certain cases in areas where there is some commercial assistance capability, are used for other Auxiliary needs, such as training and patrols.

Question. I understand that Auxiliarists carry no liability insurance for claims related to towing assistance provided for the Auxiliary; rather, the Federal Government is responsible. Is my understanding correct? If so, how does the claims procedure work? How many claims involving allegations of negligent assistance by Auxiliarists have been filed annually over the last ten years, and how much has been paid out by the U.S. Government in that period?

Answer. Yes. The Coast Guard is responsible for dealing with third party claims resulting from Auxiliary towing assistance.

Under 14 USC 827, an Auxiliary vessel assigned to authorized duty by competent Coast Guard authority is considered a vessel of the Coast Guard. If a claim is submitted, the incident is investigated, adjudicated and paid if within the Coast Guard's statutory authority.

Over the last ten years, the Auxiliary had 171,599 recorded assists to the public. During the same timeframe, there were relatively few claims resulting from negligent Auxiliary assistance. However, no consolidated record exists which details the number of claims or the amount of money paid out.

Question. What kinds of equipment, towing power, and structural requirements does the Coast Guard impose upon commercial towing vessels? Does the Coast Guard permit disabled vessels to be towed by Auxiliary vessels whose equipment, power, and structure do not meet Coast Guard standards for commercial towboats? If so, what minimum standards are applied to Auxiliary vessels?

Answer. The Coast Guard prescribes specific equipment and structural requirements for seagoing commercial towboats at or exceeding 300 tons. Except for lifesaving and fire fighting equipment required of all uninspected vessels, the Coast Guard does not prescribe specific equipment, towing power or structural requirements upon commercial towing vessels under 300 tons. Equipment requirements for Auxiliary operational facilities towing disabled vessels exceed the equipment requirements for commercial towboats less than 300 tons. For example, they carry or are equipped with anchoring equipment, additional fire extinguishing equipment, bilge pump(s) and bailer, and it is required that the general condition of the vessel is shipshape and seaworthy.

The Auxiliary fleet is made up primarily of recreational vessels that are offered to the Coast Guard on a voluntary basis to be used in support of *ANY* Coast Guard assigned mission. All vessels accepted for use as Auxiliary facilities must have safety equipment required by Federal law, and unique operational support equipment as may be prescribed by the Coast Guard's local District Commander.

Question. If an Auxiliary vessel is towing a disabled vessel, are the navigational rules of the road the same as for commerical towboats? If not, please indicate the distinctions.

Answer. Yes, all vessels engaged in towing operations must comply with the Navigation Rules. In attempting to comply with the Navigation Rules requirements, operators of Auxiliary vessels basically designed for recreational use, have found it not only impractical, but virtually impossible, to exhibit required towing lights.

The Navigation Rules currently allow vessels not normally engaged in towing activity to employ alternative means to indentify themselves as a vessel with tow, if impracticable to display required towing lights. Accordingly, the Coast Guard allows acceptance of Auxiliary vessels for towing even though their configuration may be such that they cannot reasonably comply with the towing lights required by RULE 24, Navigation Rules. Under these conditions, Auxiliary vessels must make every effort to indicate to other vessels that they have a disabled vessel under tow, including use of portable towing lights and/or illuminating the towline and tow where feasible.

Question. In 1980 the Congress enacted Public Law 96-350 in order to improve the Coast Guard's ability to enforce against drug trafficking on the high seas. Is my understanding correct that this law has been successful in helping the maritime drug interdiction effort, especially against foreign nationals and vessels? Please illustrate your answer with arrest and prosecution statistics, comparing success rates prior to enactment of P.L. 96-350 and thereafter.

Answer. Public Law 96-350 represents a dramatic improvement over prior law with respect to the interdiction and prosecution of drug traffickers on the high seas. Under prior law, it was necessary to prove that the traffickers intended to import the drugs into the United States, which can be very difficult. Under P.L. 96-350, proof of intent to import is no longer required.

The improvements of P.L. 96-350 are represented in our enforcement statistics. During the period January to September, 1980, prior to the signing of the law, only 64% of those arrested by the Coast Guard were accepted for prosecution and only 45% of those tried were convicted. Statistics show that for Calendar Year 1985, 83% of those arrested were accepted for Federal prosecution, and of those cases which have gone to trial or plea, 94% were convicted. Other statistics follow:

SEVENTH DISTRICT DRUG PROSECUTIONS BY CALENDAR YEAR [1]

	1982	1983	1984	1985
Individuals arrested	780	731	937	660
State prosecutions	11	2	7	17
Federal prosecution:				
Initiated	602	576	751	545
As percent of those arrested/seized	77	79	80	83

SEVENTH DISTRICT DRUG PROSECUTIONS BY CALENDAR YEAR [1]—Continued

	1982	1983	1984	1985
Tried/pled in Federal court:				
Number	592	521	560	198
As percent of prosecutions initiated	98	90	75	36
Federal convictions:				
Number	527	444	508	186
As percent of those tried/pled	89	85	91	94

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[1] Notes: 1.—As of December 31, 1985. Approximately 80% of all Coast Guard drug seizures occur in the Seventh District. Prosecutions initiated and their outcome are reported in the same calendar year as the arrest, even if the trial/plea/conviction/acquittal took place during a later year.

Question. H.R. 739, which became law on May 19, includes an amendment of mine that makes clear that the Coast Guard may board foreign vessels if the flag government consents orally to the boarding. This amendment was necessary because some courts have asserted that the law allows such a boarding to proceed only if the foreign government provides written consent. In looking into the consent issue, however, I have discovered that there is a broader underlying problem—individual defendants are raising international jurisdiction objections at trial as devices for escaping conviction.

(a) When a question arises regarding the Coast Guard's international jurisdiction to board a foreign-flag vessel, shouldn't that be resolved by the United States and the flag nation? Why should individuals be permitted to raise international law issues at trial?

Answer. As you have noted, Public Law 99-307 amended 21 U.S.C. 955a to clearly provide that the informal agreements we obtain from foreign flag states permitting the U.S. to take law enforcement actions against their vessels constitute "arrangements" as that term is used in the definition of "customs waters." This amendment confirms existing practice, and is beneficial in light of some court decisions that questioned whether such informal agreements were legally sufficient. You are also correct, however, in noting that there are additional problems that have arisen in prosecutions under 21 U.S.C. 955a.

In enacting 21 U.S.C. 955a-d, Congress was concerned that the U.S. not exceed the scope of jurisdiction permitted under international law. To evidence this concern, Congress created four separate offenses, which individually incorporate the status of the vessel or the individual into each substantive offense. Thus, it is unlawful: (1) to possess with intent to distribute controlled substances aboard a vessel of the U.S. or a vessel subject to the jurisdiction of the U.S., i.e., a "stateless" vessel (21 U.S.C. 955a(a)); (2) for any U.S. citizen to possess aboard a vessel controlled substances with intent to distribute (21 U.S.C. 955a(b)); (3) to possess with intent to distribute controlled substances in the customs waters of the United States (21 U.S.C. 955a(c)); and (4) to possess controlled substances intending that they be unlawfully imported into the United States. It is this incorporation of international law jurisdicational principles into the substantive offenses that has given rise to some prosecutorial problems.

We agree that questions regarding the authority of the Coast Guard to take law enforcement actions aboard foreign flag vessels should be resolved as a diplomatic matter between the U.S. and the flag state, and not litigated by individual defendants in a criminal trial. Under international law, rights and duties accrue to the sovereign, not to individuals, and individuals generally have no standing to raise violations of international law. Thus, if the flag state is satisfied that the requisites of international law have been satisfied, that should end the matter. Under 21 U.S.C. 955a, however, individual defendants acquire standing to test U.S. compliance with international law, even if the absence of objection from the flag state (indeed, even with the consent of the flag state to U.S. action) because of the Congressional statement that section 955a was intended only to provide the maximum scope of jurisdiction permitted under international law, and because international law jurisdictional principles have been incorporated into the substantive offenses.

Question. Please describe the kinds of problems the Coast Guard and federal prosecutors have encountered as a result to the need to defend against international jurisdiction objections at trial.

Answer. The principle problems that have arisen involve the difficulty of proving vessel status. For Example, if upon inquiry by the Coast Guard, a vessel makes a claim of registry, the U.S. must confirm that registry with the claimed flag state. If the flag state denies registry, the vessel is stateless, i.e., a "vessel subject to the jurisdiction of the United States" under 21 U.S.C. 955a(a). At this point, the U.S. may under international law take law enforcement action against that vessel. However, to prove the element of the offense in court, the U.S. must obtain a formal certification from the claimed flag state attesting that the vessel is not registered in that state. On the other hand, it the claimed state verifies registry, the U.S. obtains that state's consent to take law enforcement action. This is the type of informal consent or "arrangment" addressed in Public Law No. 99-307. Once that consent is obtained, the vessel is within the "customs waters of the United States" and may be prosecuted under 21 U.S.C. 955a(c). However, to prove the element of the offense in court, the United States must obtain a formal certification from the flag state verifying registry and confirming its consent for the U.S. to take law enforcement action. The difficulties in obtaining these documents from foreign governments in a timely manner, and in a form acceptable to our courts under the Federal Rules of Evidence, have been considerable. In some cases, Coast Guard officers have flown to foreign capitals on the eve of trial to obtain the required documentation.

Question. I have heard that some courts have required the prosecution to prove beyond a reasonable doubt that the foreign government consented to the Coast Guard boarding. Is this true? What is it about the way the law is presently drafted that has enabled courts to make this kind of ruling?

Answer. Some courts have held that proof of foreign nation consent, or proof that the vessel is stateless, must be proved to the jury beyond a reasonable doubt. These holdings arise from the fact that the status of the vessel may be considered an element of each offense.

Question. Do you think the enforcement and prosecution of maritime drug cases would be improved if the law were changed to describe a single offense of possession with intent to manufacture or distribute? In other words, the references to jurisdiction would be left out of the description of the offense.

Answer. I do believe that prosecution of drug cases would be improved if international law jurisdictional elements were removed from the offense. Questions concerning compliance with international law would then be settled diplomatically between the U.S. and the flag state involved. Thus, the only issue to be litigated at the criminal trial of an individual being prosecuted for drug trafficking would be the essential one: whether that defendant in fact engaged in illegal drug trafficking.

Question. How many of the new Short Range Recovery Helicopters will have been delivered to the Savannah Air Station by the end of the current fiscal year? How many of these helicopters are expected to be delivered in FY 1987? What will be their range and flying time to Charleston?

Answer. No new HH-65A Short Range Recovery Helicopters will be delivered to Air Station Savannah during fiscal year 1986. Current plans are to site four new HH-65A helicopters there in fiscal year 1987. These helicopters will be replacing three, aging HH-52A helicopters currently asigned Air Station Savannah. The range of the HH-65A is 400 nautical miles; however, the radius of action assuming recovery of three persons from a distress is 150 nautical miles. The flight time from Air Station Savannah to Charleston for the new HH-65A helicopter is approximately 30 minutes.

Senator STEVENS. The Senate leadership has called us off to the Senate, and under the circumstances the four statements that have been presented to us by the witnesses scheduled to appear will be printed in the record. I deem that to be a sufficient record to deal with the three subjects that are before the subcommittee, and therefore we will not complete the hearing.

I apologize to you. We have no control over some of these schedules, and this is one of the times when we have been called to the Senate. So I thank you all for your courtesy.

Admiral Gracey, God speed to you, sir.

Admiral GRACEY. Thank you, sir. And thank you for your courtesy.

Senator STEVENS. The hearing is adjourned.

[Whereupon, at 10:50 a.m., the hearing was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF CAPT. ROY MOODY, JR., DIRECTOR, NAVY, MARINE CORPS AND COAST GUARD AFFAIRS RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES

Mr. Chairman and Members of the Committee: I am pleased with the opportunity you have afforded the Reserve Officers Association to participate in this hearing regarding Coast Guard Appropriations for fiscal year 1987. Mindful of ROA's Congressional Charter to support a military policy for the United States that will provide for adequate national security and promote its development and execution, it would appear that we, the Congress and ROA, have a compact that is similar to that Total Force mutually-supportive concept that exists between the Reserve and Regular components of the various military services—one of which is the Coast Guard, though some recent actions and attitudes would seem to belie that truth.

ROA has frequently expressed our concern for the early implementation of a credible Maritime Defense zone initiative, particularly suitable to a trained, well-equipped and well-exercised Reserve establishment—only to be confronted with budgetary setbacks coupled with pressures to privatize many maritime activities in the very zones that are critical to current forward deployment strategies. To support forces deployed overseas, it is indispensable to insure the safe transit of material out of our staging ports, through the Maritime Defense or Coastal Zones and finally, with similar techniques, to disembark such material on foreign shores.

The Commanders, Coast Guard Atlantic and Pacific areas, have expressed a need for at least 40,000 additional Naval *and* Coast Guard Reservists just to effectively implement the full MDZ concept. We are pleased that the Administration has recommended an increase in the Coast Guard Selected Reserve of 500—from 12,500 to 13,000. However, this minimal increase hardly responds to an established mobilization requirement of 27,400.

I would like to emphasize, however, that the Administration's requested increase of $3.7 million for Reserve Training does *not* support the additional 500 selected Reserve personnel which have been requested. It simply covers cost escalation, pay raise annualization, Reserve G.I. Bill costs, and continuation of FY86 programs into FY87. The Administration has proposed an increase of 500 personnel and has not included one penny in the budget to support them. ROA estimates that an additional $2 million is necessary to support this requested, and very essential, increase. It may appear that ROA is concerned about relatively insignificant amounts of money. However, as this committee well recognizes, $2 million is *not* an insignificant amount to the Coast Guard.

I would like to focus briefly on the OE and A, C & I Appropriations, as recommended by the Administration. The Coast Guard projected equipment (air and sea) inventory is to be significantly increased by the add-on Coast Guard funding contained in the FY 1986 Defense Appropriation. Congress specifically noted that immediate procurement was expected, noting that the funding was for procurement, not design. However, the OE account would be increased on only 6 to 10 percent in Fiscal Years 1987 and 1988. There is an apparent imbalance in the perception of what would be necessary to responsibly field the new equipment that will be coming on line.

ROA is particularly concerned by the Administration's A, C & I request of only $77.1 million. This obviously reflects a proposed reduction in procurement budget authority (which has totalled approximately $300 million per year in recent years) to offset the $375 million add-on funding which was included in the FY 1986 Defense Appropriation. However, Congressional language clearly indicates that the 1986 add-on was to be used to procure *additional* equipment, i.e., an increase in the capital plant inventory. That add-on did not provide for the planned rehabilitation of the existing fleet of cutters, nor does the FY 1987 request. In fact, the Administration's Budget submission specifically acknowledges that only seven of twelve High Endurance Cutters (378' WHEC) and only six of sixteen Medium Endurance

Cutters (210' WMEC) will have entered a shipyard for critical overhaul and modernization by the end of FY 1987. These are vessels that are particularly suited to the new Maritime Defense Zone mission in fulfillment of the Coast Guard's special augmentation-of-Navy role; they are also the classes of vessels that Reserve Vessel Augmentation Forces would be, and are, assigned to for training and mobilization.

This obvious attempt by the Administration to flout the intent of Congress is totally consistent with actions taken everytime the Congress appropriates add-on Coast Guard funding, through the Defense Department, for additional equipment. In the last five years, Congress has added $975 million to be used for equipment procurement over and above that planned in the programmed A, C & I Budget. To the best of our knowledge, little, if any, additional equipment has been procured and the funding has consistently been used for purposes other than that intended by Congress. The Administration appears bound and determined that the capital plant inventory of the Coast Guard shall not be increased. ROA submits that it is time that Congress ensure the add-on funding is used for additional equipment as intended, that the normally programmed A, C & I Appropriation be funded in full, and that concomitment personnel, operating and maintenance growth, to support the additional assets, be mandated.

Accordingly, ROA strongly supports the FY87 Coast Guard Authorization Bill passed by the House (HR 4208), Section 2, which recommends an A, C & I authorization of $300 million.

Two additional funding packages were carried in 1986 Navy appropriations for Coast Guard use—through its Operating Expense account. One $15 million package, sponsored by Representative Charles Bennett, (D-FL), was to provide 500 additional personnel to serve as boarding teams (TACLETS) to be carried on Navy vessels for drug interdiction efforts. Of more concern to ROA and Reserve forces is the $100 million similarly provided to the Navy O&M account to reimburse the Coast Guard for expenses related to training and maintenance needs associated with military readiness. Neither increase is reflected in published budget material for the Fiscal Years ahead.

ROA is concerned that HR 4208 recommends only $1.862 million for FY87 operating expenses. This is identical to the amount recommended by the Administration in support of a military personnel level of 38,652. While HR 4208 recommends a military personnel level of 39,200, an increase over the Administration request to include the 500 TACLET personnel, the House recommended no additional OE funding. ROA recommends that the FY87 OE account be increased by at least $15 million, the amount appropriated in FY86 for the additional 500 TACLET personnel.

As noted earlier, ROA supports the Administration request for an increase of 500 Coast Guard Reservists; but we would reiterate that the 13,000 personnel requested still constitutes only 47% of Coast Guard mobilization requirements. The reflected rate of increase is a long way from matching the Department of Defense program that would put all of its Reserve Forces at 100% of mobilization requirements by 1988—as illustrated in the following table:

[Manpower shown in thousands]

	Army	Navy	Air Force	Marine Corps	Cost Guard
1980	202	86	58	33	11.7
1981	212	87	60	37	11.7
1982	242	93	63	40	12
1983	251	102	67	43	12
1984	255	110	70	43	12
1985	263	118	70	42	12.5
1986	273	125	75.6	43	12.5
1987	273	125	75.6	46	13
1988	[1] 292	[1] 130	[1] 75.6	[1] 49	[2] 13
Percent increase	44.6	51.2	30.3	48.5	11

[1] 100% Mobilization requirements.
[2] 50% Mobilization requirements.

This gross disparity in mobilization manning between DOD Reserve Components and the Coast Guard Reserve draws attention to the eight Coast Guard operating expense programs identified as line items in the FY87 Administration Budget. One of these is Defense Readiness.

The FY 1986 Defense Appropriation placed those funds destined for the Coast Guard under Budget Function 050 (Defense). Chairman Walter Jones (D-NC), House Merchant Marine & Fisheries Committee, in a recent National Security Report, proposed that the Coast Guard budget come also under the scrutiny of the Armed Services Committees and Defense Appropriations Subcommittees. ROA supports this proposal and recommends consideration be given to breaking out the entire Coast Guard budget into two functions, Defense Function 050 and Transportation Function 400. Such action might provide a military identity which many consider lacking. Initially, this might create some confusion since the Coast Guard budget would have to be approved by two Appropriations Subcommittees, Defense and Transportation. However, the current authorization procedure constitutes precedent for such split authority—the House Merchant Marine and Fisheries and Senate Commerce Committees authorize all Coast Guard except Reserve; the Coast Guard Reserve is authorized by Armed Services.

Clearly, Reserve funding could be considered a Function 050 activity; some A, C & I and OE funding was so treated in FY 1986. Function 050 funding would also escape the anomaly of labeling all Coast Guard Appropriations as "non-defense discretionary funding" as did the Senate and the Congress during consideration of the reduction initially proposed during FY 1986 appropriations deliberations.

In budget terms, does the Coast Guard really belong in Function 400, the Transportation "mixed bag?" In this budget function, the Coast Guard must compete with AMTRAX, CONRAIL, Urban Mass Transit and other transportation activities. The Administration wants to cut many of these activities drastically; however, in many cases Congress disagrees and insists on restoring these proposed cuts. Restoral funds must come from somewhere, and in Function 400 the Coast Guard is one of two large "dollar-for-dollar" accounts. Function 400 becomes even less desirable if trust funds (highways, airports, mass transit) are placed off budget. Such action would make the Coast Guard even more vulnerable when across-the-board cuts are made. Competition for funding among various agencies is desirable, but not when the competing agencies are so disparate in nature, and when some agencies (not the Coast Guard) have access to operations trust funds which act as a considerable buffer to service reductions.

While discussing the feasibility of a Function 050 budget for the Coast Guard Reserve and associated defense activities, ROA notes that the FY86 appropriations has benefitted Customs Service, through the Department of Defense, for drug interdiction aircraft modification. Funding was also added to the Air Force Appropriation for aircraft and Command and Control structure to be used in the drug interdiction mission. We trust that these many drug interdiction efforts and elements are well coordinated. We also suggest that consideration now be given to the establishment of a Coast Guard Reserve aviation mission that would significantly enhance the Navy-Coast Guard Maritime Defense Zone capability and which would receive peacetime training and area familiarization through drug interdiction and surveillance activity.

Finally, ROA wishes to hoist a warning against current pressures to privatize a wide range of Coast Guard activities. These concepts are not new, they just carry different labels—and have been policy to varying degrees over the years. Not too many years ago there were moves to "civilianize" the service; then came pressures to contract out services through the so-called "A-76 process;" and now privatization.

There are many powerful arguments which support the conclusion that the multi-mission Coast Guard meaningfully and most cost-effectively promotes the general welfare of the nation, while significantly contributing to national security. The Coast Guard roles have been consolidated, reduced, expanded, surveyed and heavily scrutinized by both external and internal reviews over the years, and always have been determined to be in the public interest.

Generally, our Coast Guard has been a model for other nations; it directly returns to the nation some 300% over its total appropriations; and through a multiplier effect produced through its ability to muster and coordinate a vast array of other private and governmental/public resources, the Coast Guard indirectly balloons this return.

ROA is greatly concerned with the adverse impact of any Coast Guard privatization on port security, coastal/maritime defense capability, Reserve training, salvage capability, vessel routing and the current military forward defense strategies. While providing the economic benefits noted above, the Coast Guard and its Reserve provide this country with a ready, highly-specialized, professional military force in position to support or link-up with the other Armed Forces if this nation must be defended—ready on a 24 hour basis to go anywhere, in a moment's notice. As ROA has noted on numerous occasions the JCS War Plans call for the Coast Guard to perform a variety of missions, many overseas, in a national emergency. In many such mission areas the Coast Guard, alone among the Armed Forces, possesses the sole capability and expertise.

The loss of any significant portion of Coast Guard missions must perforce result in a loss of platforms and personnel necessary for mobilization, as well as loss of peacetime training platforms. Such action would clearly adversely impact our national security.

Even the staunchest proponents of privatization, such as The Coalition of Americans of Privatization, agree that national defense cannot be privatized and must be accomplished by the public sector. ROA contends that most of the Coast Guard's peacetime functions translate directly into wartime functions critical to national defense.

Accordingly, ROA, in the strongest possible terms, supports Section 5 of HR 4208, which requires identification of those Coast Guard activities necessary to maintain a logistics capability sufficient to ensure effective and timely performance of Coast Guard missions in periods of national emergency or mobilization. Contracting out such identified functions is then prohibited.

DOT objects to this provision as unnecessary and unduly limiting to cost-effective contracting out under the provisions of A-76. ROA would emphasize that the policy established by HR 4208 is similar to that applied to the other Armed Services in determining what is, and what is not, a suitable function for contracting out (or privatization)—no more, no less.

The thrust of DOT's objection supports the thesis of ROA's concern. Since the Coast Guard is the nation's fifth Armed Force, with specific responsibilities upon mobilization, should not the same rules for contracting out apply as they do for the other four Armed Services? In ROA's opinion, the answer is an emphatic and unequivocal "Yes!"

During the past few years, despite all efforts to the contrary, the Coast Guard has not fared well under the *sole* sponsorship of their designated Authorization and Appropriations Subcommittees. Only through the intervention of a subcommittee outside the normal "loop"—the Senate Defense Appropriations Subcommittee—has additional critical funding been provided in recent years. ROA asks that this subcommittee view the Coast Guard as our fifth Armed Force—not just another regulatory agency or transportation agency—when deliberating on annual appropriations and authorizations. The Coast Guard's military readiness and ability to carry out wartime missions should at all times be the paramount consideration to those who develop the Coast Guard budget. Other, oft-expresed, considerations must be secondary.

At ROA's Mid-Winter Conference I heard some long-time (some might call them old-time) Coast Guard Reservists sing the following to the tune of the Marines Hymn:

From the shores of Coney Island
To the piers of NYC
We will fight our country's battles
As we go forth to victory.
Oh, the Army and the Navy,
They go out to meet the foe,
But the Coast Guard never will retreat
Cuz it has no place to go.

We trust that those words are not as prophetic as those people suspected ROA hopes that this Committee will ensure that the Coast Guard always has forward movement, even though it may have to "back and fill" a bit in the process.

Mr. Chairman, that concludes my presentation. I will be pleased to respond to any questions you or other Committee members may have.

STATEMENT OF GEORGE W. STEWART, JR., NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS

The National Association of State Boating Law Administrators welcome the opportunity to give testimony regarding the Coast Guard authorization legislation for fiscal years 1987 and 1988.

First, Mr. Chairman, let me say that our Association feels very strongly that the Sportfishing and Boating Enhancement Act of 1984 (PL 98-369) "Wallop-Breaux" was a milestone legislation in directing support to "our boating public" with the tax this group pays on marine fuel used in motorboats. In previous testimony, we applauded the Congress on their farsighted approach to the needs of this user group, without placing a burden on the general taxpayer. We are here again today to reiterate our support of this important law.

Fiscal 1986 is the first year that the States have received the full appropriation of the $30 million authorized, with the exception of a possible reduction under the Gramm-Rudman law. We were elated to see the Congress acknowledge the need of this user group, in allowing the States to take a more active role in boating safety, boating education, boating law enforcement, boat search and rescue and providing public access facilities. We also recognized that this would strengthen our Federal-State maritime partnership and hopefully relieve the Coast Guard of many of their responsibilities in this area.

With our spirits running high in making long range plans for our State Boating Safety Program, we were obviously dismayed to hear that an effort is being made to reverse the authorization of the first $45 million of the Federal marine fuel tax from $30 million to the States and $15 million to the Coast Guard to provide $39 million to the Coast Guard and $15 million to the States. If this flip-flop of authorization was to be approved, it may appear that the Coast Guard would be increasing their service to the boating public. In reality, we don't think this will happen. What we do see is a reduction in the State boating safety program due to the loss of $15 million. The loser would obviously be the boating public.

The largest problem we have is in dealing with the tremendous uncertainty over Federal funding year to year. It makes it impossible to prudently budget for long-term commitments to program improvement with any certainty. The Federal funds so far have allowed us to do many things that contribute to safety on the water, such as:

—Increased boating safety patrols;

—Better boating accident investigations have pointed up causes which are targeted for increased education and enforcement;

—Increased training of enforcement officers;

—Better communications and enforcement equipment;

—Now reaching more boaters with free education classes;

—Working towards better statistical data on effects of alcohol and boating, i.e. In California, a two year study showed that in 59% of fatal motorboat accidents where testing could be conducted, alcohol was a contributing factor to the cause of an accident;

—The erection of Kiosks to provide boaters information on coastal bar crossing, navigation, equipment requirements, rules of the road and related information including charts.

—Erection of wind warning strobe lights across heavily used bodies of water to warn boaters of impending high winds;

—Courtesy boat safety inspections;

—Conducting boating surveys, which provide critical data for assessing boat use, conflict areas and safety courses;

—Handing out free literature on boat noise, sailboarding safety, make way in dealing with large ships, hypothermia, thrill craft, use of life jackets (PFD's), and dealing with alcohol use.

The following States have shown a noticeable reduction in boating fatalities:

	1983	1984	1985
State:			
Arizona	15	9	6
Arkansas	15	8	11
California	95	93	76
Connecticut	15	8	4
Delaware	4	0	2
Georgia	36	13	29
Louisiana	73	58	58
Maine	15	12	7
Maryland	26	24	17
Massachusetts	22	21	17
Michigan	56	40	48
Montana	18	2	8
Nevada	10	4	3
Ohio	34	34	29
Pennsylvania	25	23	16
South Carolina	41	35	17

	1983	1984	1985
South Dakota	5	6	1
Virginia	32	22	19
West Virginia	10	7	6
Wisconsin	43	22	22

So as to not mislead the Subcommittee, we must point out that in many States, they have experienced a surge in boating fatalities and in others they are just holding their own. With the ever increasing number of recreational boats on our waterways, this will obviously be a problem that must be addressed with long-range planning and funding to get the job done.

We feel the State program, to date, is living up to the high expectations of the Congress. With the full funding during FY '86 we will strive for more innovative use of the funds to better educate the boater and further reduce boating fatalities. However, we cannot over emphasize that stability is needed if the true fruits of full funding are to be realized. We, therefore, urgently ask this Subcommittee to thwart any efforts to reduce the State authorization.

It seems to our Association that it has been extremely difficult to get an accounting of the exact amount of tax that is generated from marine fuel. Maybe some of this stems from the large amount of gas purchased by boaters from highway gas stations for use in trailered boats. A consideration may be for the Congress to take the lead and establish a percentage of all fuel tax generated that can be contributed to motorboats using some State studies along with any Federal study to make this determination. You may find that there would be enough to satisfy all interests including the Coast Guard.

In the case of Federal boat user fees, we have not seen a breakdown of the fees contemplated or the justification for these fees. So without this information we are reluctant to take pot shots beyond voicing our concern as follows:

Our Association was hopeful that Federal boat user fees would not resurface until after evaluating our State efforts with full funding to see what the shortfalls were (if any) that may require enactment of Federal boat user fees. Again, fiscal 1986 is the first year we have seen full funding and as of this date, these funds have not been distributed to the States. Also of concern to our Association is the fact that some of our States have no Coast Guard presence as pertains to recreational boating and some States indicate that they can handle the recreational boating safety efforts without Coast Guard assistance. The question is raised, "Should boat owners in those States be required to purchase and display a user fee validation decal?" We think not.

The States recognize and appreciate the services of the Coast Guard Auxiliary personnel on State waters. We enjoy a close cooperative working relationship with the Coast Guard Auxiliary and welcome any and all assistance rendered to our boating public by this group.

Our Association feels that any operator of a commercial vessel of any length that tow disabled vessels should be licensed by the Coast Guard. Action by these operators affect the safety of persons on the disabled vessel and we feel that the tow boat operator should be knowledgeable of the rules of the road, seamanship and boat handling as a minimum. Requiring an operator's license would insure this.

We feel that the Coast Guard should be authorized to use a part of the State boating safety funds to pay the Federal costs of administering that program. We think this is normal administrative procedures used by other Federal agencies who administer funds to the States. To date, we are pleased with the outstanding manner in which this program is administered by the Coast Guard.

In summary, Mr. Chairman, the National Association of State Boating Law Administrators enjoy a very close working relationship with the Coast Guard. We feel that we compliment each other in our joint efforts to make safe and enjoyable boating a reality on our nation's waterways. We are, therefore, pleased to offer our comments before this Subcommittee on the Coast Guard's authorization legislation for fiscal year's 1987 and 1988.

STATEMENT OF THE AMERICAN BUREAU OF SHIPPING

INTRODUCTION

The American Bureau of Shipping (ABS) has long been involved with marine safety in fulfilling its chartered purpose of promoting the security of life and property at sea. Over 120 years of experience in devising and applying standards inform ABS's perspective on H.R. 1362. We support the Committee's efforts to clarify and update the existing body of maritime law. In particular, the abolition of the present two tiered vessel measurement system and the codification of the 1969 International Convention on Tonnage Measurement of Ships will bring the United States into step with the rest of the world. Currently a vessel has to have its tonnage calculated under the present statute for registration, and under the International Convention on Tonnage Measurement of Ships, 1969, for the International Tonnage Certification (1969). The proposed legislation also gives the Secretary needed flexibility to keep pace with technological changes in the marine industry.

LOAD LINE INSPECTIONS

Since 1929 ABS has performed load line inspections pursuant to its statutory appointment in the original load line legislation (Act of March 2, 1929, ch. 508, § 3, 45 Stat. 1492). Current law provides for this appointment in the following terms:

(a) Appointments for determining of condition of vessels and positioning and marking of load lines; issuance of load line certificate. The Secretary shall appoint the American Bureau of Shipping, or such other United States nonprofit corporations or associations for the survey or registry of shipping which he approves, to determine that a vessel's condition is satisfactory and whether its load line is positioned and marked in the manner prescribed by the Secretary and thereupon to issue a load line certificate. (46 U.S.C. 86d(a)), and

* * * The Secretary of Commerce [Commandant of the Coast Guard or Commissioner of Customs] shall appoint the American Bureau of Shipping, or such other American corporation or association for the survey or registry of shipping as may be selected by him, to determine whether the position and manner of marking on such vessels the load line or lines so established are in accordance with the provisions of (Section 88–88i) * * * (46 U.S.C. 88b)

The importance to marine safety of effective load line inspection need not be pointed out to the Members of the Subcommittee, who have unfailingly sought to ensure the security of lives and property at sea, and who are pursuing that goal in H.R. 1362. However, ABS would like to restate the reasons for which Congress appointed ABS to perform this function. Those reasons are still valid today, and warrant a continuation of the existing laws regarding load lines. Moreover, it is the intent of this legislation to revise and consolidate existing laws, without materially altering them.

A review of each of the criteria for appointment contained in current law shows that there are sound reasons for each one, as important today as they were fifty years ago.

Reasons for Statutory Authorization for Delegation of Authority to ABS

"United States":

The reasons for appointing an American corporation are clear and are as valid today as when the legislation was first enacted. Shipping, even merchant shipping, is a strategic industry. In time of crisis the nation must count on its merchant marine, and the merchant marine itself must be able to rely on the associated organizations such as classification societies to perform their national security function without the conflicting loyalties of a foreign corporation. In the wars of this century, ABS has performed such functions. Indeed it was at the insistance of the United States War Shipping Administration, and the United States Maritime Commission, which desired technical support for naval vessels, that ABS expanded overseas after the Second World War.

As a classification society, ABS has access to and keeps copies of sensitive plans and classified material on government and quasi-governmental ships. Several U.S. Army vessels and a large number of vessels owned by the U.S. Navy, including several on loan to schools, have been built to ABS classification and continue to be surveyed by our surveyors. A number of vessels are being built or converted for the Navy, or under Navy charter, including a series to Maritime Prepositioning ships to support rapid deployment of U.S. forces and equipment worldwide.

Another reason for restricting federal delegations is to ensure sufficient control by the Coast Guard over the exercise of a government function. The only way delegation will work is if the Coast Guard works closely with the delegate to make sure it interprets the regulations consistently with the Coast Guard's interpretation. A corporation headquartered in Europe or Asia is not as familiar with the Coast Guard regulations, and may not be willing or able to devote the necessary attention to developing rapport and understanding with the Coast Guard.

In the case of ABS there is already a history of cooperation and a working partnership. The unique attributes of ABS and its considerable contributions to a strong and safe U.S. merchant marine were recognized by the U.S. Congress as long ago as 1920. In the Merchant Marine Act of 1902, Congress directed all departments, boards, bureaus, and commissions of the United States Government to recognize ABS as their agency so long as the organization of ABS remained unchanged. See 46 U.S.C. 3316(b).

In fact the Coast Guard has asked ABS to develop a comprehensive technical manual for determining the conditions of assignment of load lines and on freeboard calculation methods. ABS is working closely with the Coast Guard on this project which will result in an in depth reference for Coast Guard personnel. In addition, the Commandant of the Coast Guard and the Maritime Administrator of the Department of Transportation sit on the Board of Managers, and present and former Coast Guard officers sit on other committees. They make their views known and can voice their concerns at all levels of management. They also have the advantage of working with all the viewpoints represented on ABS committees and in ABS membership.

It is true that the Coast Guard has authority under the International Convention on Load Lines, 1966, to delegate to non-U.S. classification societies, and has done so. However, it remains important to maintain the primary position of the only United States organization performing load line inspections—ABS. We believe the language proposed in H.R. 1362 (§ 5107(a)) specifically naming ABS adequately accomplishes this purpose.

"Non-Profit".

The long-standing policy of appointing not-for-profit organizations to receive delegations of authority has among its foundations, the reasons to:

a. Eliminate the profit motive and thereby increase integrity in the performance of independent functions;

b. Enhance the credibility and integrity of U.S. certification and render it consistent with the practice of foreign governments;

c. Not delegate what is essentially a governmental function to commercial profit-oriented organizations;

d. Avoid the possibility that manufacturers or other interested parties might qualify to certify their own products or designs; and

e. Permit any surplus of fees charged over expenses incurred to be used for research and development related to the protection of life and property at sea.

In order for American Bureau of Shipping as a not-for-profit, tax-exempt organization to carry out its objective of protection of life and property at sea, it must obey limitations placed on similar tax-exempt organizations by the United States Internal Revenue Code.

The tax exemption of ABS, first granted in 1919, was granted by the Internal Revenue Service pursuant to Section 501(c)(6) as a "business league . . . not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual" Regulation Section 1.501(c)(6)-1 provides:

A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit . . . An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league. [Emphasis supplied].

In order to maintain its tax-exempt status, ABS cannot participate in "a regular business of a kind ordinarily carried on for profit." By including profit making organizations as delegatees of Coast Guard functions and other inspection functions, Congress might place ABS and similar tax-exempt organizations in the position of participating alongside a profit making organization which could jeopardize their tax-exempt status under Section 501(c)(6) of the Code.

The very concept of profit is contrary to the purpose of a standard setting organization; profit by its very definition is the reward for risk-taking by an entrepreneur. The greater the risks successfully undertaken the greater the profit. Certainly the Committee cannot contemplate rewarding an entrepreneur for taking risks by cutting corners in enforcing the load line and tonnage regulations of the United States. Only an organization which marshalls all of its resources towards the public and benevolent purposes of the development and promulgation of safety standards should be recognized to exercise for and on behalf of the Government of the United States the administration of standard upon whose impartial application depend the very lives of those who go to sea in ships. Participation by for-profit organizations in such a program may interfere with participation by those whose motives are not directed toward economic gain from their services on behalf of the U.S. Merchant Marine.

Again, ABS acknowledges that the Coast Guard has in some cases delegated load line authority to for-profit societies. However, we would urge that the potential safety risks posed by these delegations be carefully guarded against. Also, it is imperative that no adverse tax consequences affect ABS as a result of this for-profit activity. However, ABS is willing to hold its reservations in abeyance on the assumption that, in the event such problems were to arise, appropriate legislative remedies would be forthcoming.

In summary, ABS supports the basic purpose of H.R. 1362—to revise and unify the load line statutes—and believes the language employed is adequate to ensure that the longstandng U.S. load line program continues to operate successfully, and in the best interests of the U.S. Merchant Marine.

MEASUREMENT OF VESSELS

ABS currently performs admeasurement services on behalf of the Coast Guard. This delegated activity takes place pursuant to a Memorandum of Understanding between ABS and the Coast Guard, a copy of which is attached as Appendix I. ABS believes this delegation is functioning very well, and that the Coast Guard shares this assessment. We are confident that this arrangement will continue to ensure an effective, efficient and mutually satisfactory measurement program.

H.R. 1362 provides for the continuation of this delegation, stating that:

The Secretary may delegate to a qualified person the authority to measure a vessel and issue an International Tonnage Certificate (1969) or other appropriate certificate of measurement under this part. § 14103(a).

An effective measurement program is as important to marine safety as the load line inspection function previously discussed. Consequently the same degree of care and prudence should be exercised in the appointment of delegates for the issuance of Tonnage Certificates as applies in the area of load line certificates. As previously stated, in the load line context, Congress has established ABS as the model of the kind of organization to which it is appropriate to delegate sensitive quasi-governmental safety functions. In so doing, it has affirmed the importance of those characteristics which distinguish ABS, to wit, among others: its long history of supporting the U.S. Merchant Marine; its long history of working in a quasi-official capacity with the U.S. Government; its non-profit purposes and organization; it inclusion of key U.S. government officials in management and decision making; and its status as the American classification society.

The delegation of tonnage measurement to ABS by the Coast Guard is predicated on the same recognition of these important characteristics. Moreover, that delegation has given the Coast Guard full assurance that measurement is performed responsibly, efficiently and in a manner consistent with Coast Guard policy and technical interpretation.

In view of this success, ABS does not believe it would be wise to alter the existing program substantially. Nor do we believe that alteration would be consistent with the codification purpose of H.R. 1362. However, there would appear to be a potential for such an occurrence in the very open language employed in the bill as introduced. Permitting delegation to any "qualified person" is to risk, if not invite, inappropriate delegation. Moreover, there is no reason to use such an undefined term. The Coast Guard would have sufficient flexibility in making measurement delegations under the terms employed in the load line provision whereby delegation is to ABS "or other similarly qualified organizations." Accordingly, we respectfully recommend that Section 14103(a) be amended to conform with the language of Section 5107(a). ABS does not believe that this small modification to the language would be a matter of controversy. Indeed, on this point it is relevant to note that the House Merchant Marine and Fisheries Committee Report analysis of section 14103 expressly cites the American Bureau of Shipping as providing the standard by which an organization should be judged in order to qualify for a delegation of authority. H.R. Rep. No. 398, 99th Cong., 1st Sess. 18 (1985).

REVOCATION OF DELEGATION

Both the load line and the measurement provisions of H.R. 1362 provide that:

The Secretary at any time may revoke without cause a delegation made under this section. §§ 5107(d), 14103(d) [Emphasis added].

Clearly it is of the utmost importance to the success of delegation that the Coast Guard have plenary oversight authority, including the power to revoke delegation. In addition, ABS fully agrees that the Coast Guard must be able to revoke a delegation without delay or hesitation. However, we question whether this requires providing the Coast Guard with the extraordinary power to revoke without cause. Basic fairness and fundamental principles of good government militate against use of such a term. Moreover, we believe that the Coast Guard's oversight authority can be fully protected without impairing the legitimate concerns of organizations receiving delegated authority.

Accordingly, ABS respectfully requests that the revocation provisions be modified to give the Coast Guard power to revoke delegation immediately and without a hearing, while requiring it to inform the affected organization fairly promptly of the reasons for the revocation. In addition, we would urge that the organization be given an opportunity to respond to the reasons so stated by the Coast Guard, and that the Coast Guard issue a final statement briefly explaining its ultimate decision.

In making such changes, we believe it could be made clear, no doubt in report language, that the Coast Guard is to have wide discretion and freedom of action in this area. It should also be understood that the notice and explanation required of the Coast Guard may be brief and straighforward. Finally, this change would entail application of the relatively lenient "arbitrary and capricious" standard of judicial review.

ABS STATUS AND ACTIVITIES

As it has been some time since ABS has had the honor of appearing before the Senate, we take this opportunity to report in some detail on our current status and recent activities. It is hoped that this information also will assist the Subcommittee in evaluating the issues discussed herein regarding H.R. 1362.

MANAGEMENT

American Bureau of Shipping is both a self-regulatory agency representing the maritime community and a quasi-governmental authority and is ultimately governed by the maritime community in concert with the United States Government. The Rules promulgated by ABS are widely applied and authoritative although ABS has no enforcement powers and classification with ABS is voluntary. The reason for their authority is that the Rules represent the consensus of the industry, reached through ABS committee, meetings, on what is best for the entire industry not just a small segment of it. Industry experience and expertise are translated into design, construction and survey standards through the agency of ABS. Moreover, most, if not all, policies of marine insurance as well as most charter parties require that a vessel owner maintain the ship in class with a major classification society.

The fact that American Bureau of Shipping is an impartial representative of the maritime community is demonstrated by the fact that management responsibilities are vested in a Board of Managers, 71 in number, elected from some 561 Members of ABS. The Members, and thus the Board of Managers, are composed of marine underwriters, shipowners, shipbuilders, government representatives, naval architects, marine engineers and other persons who are prominent in their marine field of endeavor. Of the Board of Managers, two Members are designated by the United States Secretary of Transportation. These members are the Maritime Administrator and the Commandant of the United States Coast Guard.

RULES

The Rules for Building and Classing Steel Vessels ("Rules"), the basic ABS standard, describes in detail modern engineering practices for the design and construction of commercial vessels. The Rules are derived from principles of naval architecture, marine engineering and other engineering disciplines that have been proven satisfactory by service experience and by systematic analysis. Each edition embodies service experience and technological advancements developed since the first edition was issued in 1890.

The Rules are updated annually through a committee structure. American Bureau of Shipping committees are composed of individuals from industry and government, eminent in their marine fields, who serve without compensation. These committees permit ABS to maintain close contact with interests in various geographical regions and with various technological and scientific disciplines. The committee arrangement has the distinct advantage of allowing the Government and all segments of the industry to participate in developing the various Rules, thereby making them authoritative, impartial, and widely recognized and respected.

In addition to the Rules, ABS publishes other specialized volumes such as Rules for Building and Classing Offshore Mobile Drilling Units, Aluminum Vessels, Vessels Under 200 Feet in Length, Great Lakes Bulk Carriers and Single Point Moorings, to name just a few.

THE RECORD

In addition to establishing and administering Rules, another function of ABS, as stated in its Constitution and By-Laws, has been to keep a "faithful and accurate Classification and Registry of mercantile shipping." In fulfillment of this obligation the first edition of this registry was published in 1869 and was called the Record of American and Foreign Shipping, a title which for the sake of convenience has since been shortened to the Record. Through the years the Record has grown in both importance and size and today the 1986 Record gives the pertinent characteristics and information on over 19,000 merchant vessels, all ABS classed vessels or load line vessels.

FINANCES

The American Bureau of Shipping is a not-for-profit organization. It has no capital stock, no part of its income is distributed among its Members, and no Member or Committee Member, who participates in the work of the ABS technical committees, special committees, or panels, receives compensation for his service. The American Bureau of Shipping is entirely supported by the fees charged to shipyards, shipowners and others who request classification services. It receives no funding from the government except the fees for surveys of individual government ships. Any excess of income over expenses in any one year is used to extend and improve services and for research and development.

OPERATIONS

The ABS personnel who perform the numerous daily activities related to the classification of vessels have diverse backgrounds. On the staff there are naval architects, marine engineers, electrical engineers, civil engineers, metallurgists, computer specialists, individuals with experience as seagoing engineers, and others with technical skills applicable to ship classification. Staff members are generally known as either engineers or surveyors, depending upon their duties. These can best be described through an explanation of the classification procedure.

CLASSIFICATION PROCEDURE

Classification is a four-step procedure involving technical plan review, surveys during construction, approval by Classification Committee, and subsequent periodic surveys.

When an owner first requests that his vessel be classified with ABS, the shipyard submits the plans to the ABS technical staff for a systematic detailed review as to compliance with the Rules. To conduct such studies, ABS employs naval architects and marine engineers who scrutinize the vessel's hull and machinery plans to verify that the details conform in all respects to the requirements set forth in the published ABS Rules.

After a vessel's plans have been approved by the ABS technical staff, the next phase of classification begins—the construction of the vessel under the surveillance of the ABS Surveyor in the field. Surveyors conduct continuous surveys of a vessel from "keel laying" to delivery to assure adherence to the Rules and to certify that the approved plans are followed. During the construction of a vessel built to ABS classification, Surveyors witness the tests of materials for hull machinery items at the place of manufacture or fabrication and survey the building of the hull, machinery, boilers and vital auxiliaries.

Having conducted a continuous survey of the vessel from the time of "keel laying" until completion, the Surveyor then attends the sea trials to assure that the vessel is in good working order and capable of performing in accordance with its plans. Upon successful completion of sea trails the vessel's "credentials" are presented to the ABS Classification Committee. The members of this Committee (authorities from the maritime industry, U.S. Coast Guard and ABS Officers) use their collective experience and recommendations from the ABS staff to perform a final assessment of a vessel presented for classification. If they are satisfied that the vessel complies with the Rules in all respects, the committee grants the vessel official ABS classification stating, in essence, that the vessel adheres to all the plan and construction requirements of the American Bureau of Shipping and, therefore, is fit to perform its intended service with security to life and property at sea.

To insure that the vessel is maintained in proper condition, ABS conducts periodic surveys after the vessel is put into service. These periodic surveys are a necessary condition for retaining classification status. If it is found that the requirements of the ABS Rules are not met, the Surveyor will require appropriate repairs in order to satisfy those requirements. By meeting the requirements of the periodic survey the vessel continues to be "in class."

SURVEY STATUS SYSTEM

ABS has been quick to use computer technology to the advantage of the marine industry. Computer programs assist in design analysis and hull structural evaluation. As an outgrowth of its chartered purpose of collection and dissemination of information on marine subjects, ABS has implemented a computerized Survey Status System. The System permits rapid access to survey particulars on any ABS-classed vessel. As of 1 January 1986, 44 ABS offices were equipped for direct access to the central computer file in New York. ABS has also made this program available to shipowners, thus permitting those who subscribe to have direct access to records of surveys performed and required for their vessels.

STATISTICS

As of 1 January 1986, there were 13,788 vessels totalling 172,109,713 deadweight tons under ABS classification. Of these 13,788 vessels, 7,268 are U.S. flag. In addition, at that time, there were 753 vessels totalling 7,967,023 deadweight tons contracted to be built or being built to ABS classification. Of these 753 vessels, 169 vessels of 975,255 deadweight tons are being built or are to be built in the United States.

STAFF

ABS employs 275 exclusive engineers, 37 research engineers, 16 computer specialists and 570 exclusive surveyors who are located in 140 exclusive offices around the world. In addition, ABS has 79 non-exclusive offices. ABS is represented in a total of 96 countries.

FOREIGN GOVERNMENT RECOGNITION

Numerous foreign governments have delegated duties to ABS in recognition of its expertise in marine construction and repair. In fact, many other major maritime countries do not have government agencies similar to the United States Coast Guard, but instead rely on one of the major classification societies to act as their representative. The Republic of Liberia has actually designated ABS as an agent for the purpose of surveying Liberian flag vessels for compliance with the International Convention on Loadlines, 1966; the International Convention on the Safety of Life at Sea, 1960; Liberian Tonnage Regulations; and various I.M.O. Codes and Resolutions.

80 foreign governments authorize ABS to issue Load Line certificates, 62 foreign governments authorize ABS for Tonnage Admeasurement and 57 foreign governments authorize ABS to issue either wholly or in part Safety of Life at Sea (SOLAS) certificates.

PARTICIPATION IN NATIONAL AND INTERNATIONAL ORGANIZATIONS

As part of its commitment to marine safety, ABS shares its experience and technical information with organizations and government groups involved in the development and promulgation of national and international standards and regulations. At the expense of ABS, members of the staff participate in the deliberations of approximately 200 committees, panels and subcommittees of organizations outside ABS, and make available to these organizations the professional resources of ABS. These organizations range from international agencies to highly specialized technical and scientific groups. At times ABS staff members have served as experts for the United States delegations to international organizations, such as the International Institute of Welding and the Intergovernmental Maritime Organization. As part of its participation in non-governmental international activities, ABS is a member of the International Association of Classification Societies.

SHIP STRUCTURES COMMITTEE

As an agency of the U.S. government, ABS is a member of the Ship Structures Committee (SSC) along with the U.S. Coast Guard, the Naval Sea Systems Command, the Military Sealift Command, the Maritime Administration and the Minerals Management Service (formerly U.S. geological Survey). ABS contributes approximately 15% of the budget of SSC, funds would otherwise come out of the already strained federal budget. The purpose of the SSC is to conduct research which will improve the design, materials and construction of hull structure of ships and ultimately improve the safe operation of ships. Members of SSC exchange information on technical matters, and provide the funding for its research programs. When research is complete, each member agency draws on its considerable marine experience to evaluate the results in terms of ship structural design, construction and operation.

INTERRELATIONSHIP WITH THE COAST GUARD

Marine safety requries that vessels be structurally and mechanically sound, adequately manned and equipped, and operated in a proper manner. By providing the services of plan review, factory inspection, construction surveys and surveys of vessel maintenance, ABS assures the structural and mecahnical soundness of ABS-classed vessels. This assurance as to the soundness of marine vessel built to and maintained in ABS classification has led over the years to an interrelationship and partial interdependence between ABS and the United States Coast Guard, thereby allowing the Coast Guard, to concentrate its attention and resources on the manning, equipping and operating functions of marine safety.

ABS has a long-standing and good working relationship with the United States Coast Guard. The Commandant of the Coast Guard serves as a member of the ABS Board of Managers. In addition, a number of Coast Guard personnel participate in the ABS Technical Committees which have the responsibility of developing and modifying the various ABS Rules.

To reduce duplication of effort, ABS has been authorized by the Coast Guard to perform a broad range of technical reviews on U.S. flag vessels being classed with ABS and requiring Coast Guard certification. Under Coast Guard oversight, ABS conducts authorized reviews and surveys for compliance with Coast Guard regulations concurrently with its review for classification. Plans submitted for such technical reviews are submitted only to ABS. ABS takes all review and approval action for compliance with Coast Guard regulations and ABS Rules. Duplicate submissions to, and review by, the Coast Guard are not required.

Similarly, certain surveys and inspections traditionally performed only by Coast Guard personnel, or by both Coast Guard personnel and ABS surveyors may now be carried out solely by ABS Surveyors although the Coast Guard has oversight. Such surveys satisfy both ABS and Coast Guard requirements and duplicate surveys by Coast Guard personnel are not required.

The cooperation between the Coast Guard and ABS has been governed by several Agreements and Memoranda of Understanding, and is operating smoothly. Under our first Memorandum of Understanding with the Coast Guard, executed on 9 June 1981, ABS completed the technical review of plans and inspection of 491 vessels. A second Memorandum of Understanding dated 27 April 1982 broadened the scope of the 1981 Memorandum. Under the second Memorandum of Understanding with the Coast Guard, ABS completed the technical review of plans and inspection of 212 vessels as of 1 January 1986 and another 125 vessels are under construction or under contract to be built.

A Memorandum of Understanding dated 23 December 1983 concerning the admeasurement of vessels will be of interest to the Committee as it is closely related to the legislation under consideration. It is attached as Appendix I. ABS has measured 112 vessels under the Memorandum and a preceding Memorandum dated 1 February 1982 and is in the process of measuring 23 more under these Memoranda. By shouldering responsibility for admeasurement under Coast Guard supervision, ABS has permitted the Coast Guard to cut costs without sacrificing service.

Another area of fruitful cooperation has been implemented by Navigation and Vessel Inspection Circular No. 3-84, dated 16 April 1984. NVIC 3-84 provides for the gradual delegation to ABS of most stability related reviews for new U.S. vessels. Under the NVIC ABS will be phased in to the work over a two year period. Currently, ABS can perform stability reviews for barges, tank ships, general cargo ships over 500 tons, and subchapter H passenger vessels. In the months to come ABS will be permitted to perform stability reviews on vessels under 500 tons, tank barges, LNG and LPG vessels, offshore supply vessels, tugboats and towboats.

Another area of cooperation is reviews under Marpol. The Coast Guard now requires tanker vessels of 20,000-40,000 deadweight tons to comply with Marpol and has authorized ABS to carry out the related plan reviews.

In this connection, ABS is ready to perform such other functions within its capabilities as the Coast Guard may choose to delegate while still maintaining its overall oversight and authority. Because of the nature of its charter and organization, however, ABS cannot extend this cooperation into areas of activity which will involve it in matters pertaining to investigations, manning of vessels, or similar non-technical activities of the Coast Guard.

ABS is pleased with the progress made to date in implementing the various cooperation Agreements it has entered into with the Coast Guard and looks forward to increasing the scope of cooperation.

STATEMENT OF RICHARD SCHWARTZ, PRESIDENT, BOAT OWNERS ASSOCIATION OF THE UNITED STATES BOAT/U.S.

Mr. Chairman and Members of the Subcommittee: I am Richard Schwartz, President of Boat Owners Association of The United States (BOAT/U.S.). With 200,000 members from all 50 states, we are the largest national organization of boat owners in the country. We appreciate the invitation to appear before this panel and welcome the opportunity to express our interest in a number of issues which we believe will not only improve boating safety, but do so without draining the federal treasury.

I am here today to urge you to oppose an Administration proposal to reduce Boating Safety Trust Fund allocations to the states by $15 million and transfer this amount to the Coast Guard's budget.

Before I go into the reasons why we oppose this proposal, let me quickly outline for you some of the history behind the Boating Safety Trust Fund.

The trust fund derives its funds from the nine cents per gallon federal excise tax on fuel. As the taxes attributable to motorists go to the Highway Trust Fund for the building and repair of highways, the Congress declared in 1980 that the fuel taxes attributable to boaters be used to improve boating and encourage safety on our waterways.

Congressional support for this program has grown substantially over the years. Initially authorized in 1980 at $20 million, the authorization was raised to $45 million in 1983 to reflect the five cents per gallon increase in the federal fuel tax. In 1985 the Congress again expressed its support for using these taxes to benefit those who paid them when it passed P.L. 98-369 (Wallop-Breaux Act). This legislation requires that all of the taxes paid by boaters and sportsfisherman be returned to the states for their boating safety and aquatic resources programs.

The amounts appropriated for boating safety have reflected this growing Congressional support. From an initial appropriation of $12.5 million in FY 83, trust fund appropriations have risen to the full $30 million authorized.

Furthermore, the Coast Guard is benefiting from the fuel taxes paid by boat owners. Under P.L. 98-369, the Coast Guard is authorized to receive $15 million from the fund annually. To date, $45 million has been appropriated to the Coast Guard from the fund as partial compensation for the money it spends on boating safety.

Having provided this short overview of the fund's legislative history, let me say that one of the main reasons that we oppose the Administration's proposal is that it will not result in any added funds being made available for Coast Guard operations.

Were you to shift $15 million from the Boating Trust Fund to the Coast Guard, OMB would simply reduce Coast Guard general revenue funding by $15 million. While this would result in only a no-gain situation for the Coast Guard, the states, who are building the capability to take over USCG boating safety responsibilities, would find their program funding cut in half.

What have the states been doing with those fuel taxes paid by boat owners? According to a survey of state recreational boating programs, these funds have enabled 32 states to conduct 21,545 search and rescue cases. This is nearly one-third of the entire amount conducted by the U.S. Coast Guard. In fact, 20 states indicate that they can now handle search and rescue without the Coast Guard. To put this in perspective, a Department of Transportation study conducted in 1976 indicated that the states were only performing 4% of all search and rescue cases.

As the states have increased their boating safety efforts, there has been a concomitant decrease in Coast Guard expenditures related to recreational boating. In fact, the number of Coast Guard personnel dedicated to boating safety has decreased from 575 in 1980 to 190 today. And, program costs have been cut from $19 million in 1980 to $12.3 million in FY 1986.

Let me put the fuel taxes paid by boat owners in context. We estimate that since 1980 boat owners have paid nearly $365 million in federal marine fuel taxes. Of this, only $69 million has been appropriated from the Boating Safety Account. While boaters have gotten back about 19 cents per dollar in gas taxes paid, $296 million or nearly $50 million per year since 1980 was taken directly from boat owners and returned to the Treasury.

Mr. Chairman, we believe the nation's boaters have done their part to help cut the deficit. Furthermore, the states are now doing more and the Coast Guard less. This is precisely what was envisioned when the Boating Trust Fund was first established. We urge you to continue to provide the states with the necessary funds to do the job at the level authorized by Congress.

COAST GUARD AUXILIARY

In addition to providing the states with the wherewithal to assume certain Coast Guard functions, we recommend that the legislative language contained in H.R. 4208 be included in the authorization bill to allow volunteer Coast Guard Auxiliarists to more fully assist the Coast Guard in its search and rescue operations.

Mr. Chairman, in June of 1983 the Commandant issued new instructions to USCG personnel requiring them to turn first to commercial salvors in non-emergency cases. If a boater in an apparent non-emergency situation needed help, the Coast Guard was to inquire first if he had a contract with a commercial firm and if the caller did not, USCG personnel were to contact such firms to see if they could respond in a reasonable time.

Since this change in Coast Guard policy, the Coast Guard Auxiliary, which had been doing upwards of 25% of the USCG's search and rescue sorties, is now doing drastically less.

Persons assisted by the Auxiliary has dropped from 52,342 in 1983 to 33,631 in 1985, a 36% decline; the number of assists to the public has dropped from 16,356 in 1983 to 11,711, a 28% decline; the number of safety patrols has dropped from 33,701 in 1983 to 28,166 in 1985, a 16% decline; and the number of lives saved has dropped from 926 in 1983 to 428 in 1985, a 54% decline. During this same period, Auxiliary membership has declined from 33,916 to 30,818, nearly a 10% decline.

Mr. Chairman, while we cannot prove that there is a direct correlation between declining Auxiliary operations and membership and this 1983 change in Coast Guard policy, we do know that Auxiliarists are ready, willing and able to help their fellow boaters—that's the reason they join the Auxiliary—and are now discouraged and dismayed over the existing restrictions.

Some say that the Coast Guard should not compete with commercial salvors on non-emergency cases. We believe that the Commandant's June 1983 directive provides a workable policy for both regular Coast Guard units and commercial salvors. But, we do not think it is good public policy to restrict the Auxiliary from helping, especially when the Coast Guard is being forced by budget cuts to do less—in favor of adding some marginal business for commercial salvors.

It's bad public policy because there are only a handful of commercial salvors on the water who have any interest in assisting recreational boaters on a full-time basis. Of these, how many are going to be in business from one season to the next? How many are on call 24 hours a day and are willing to go out for a couple of hundred dollars when their vessels cost considerably more to operate profitably. How many are expert in handling small craft rather than big ships? Who will the distressed boater rely on when the budget crunch forces the Coast Guard to reduce its response capability?

If commercial assistance is available and is able to respond in a reasonable time then they, too, should be considered as an additional resource along with the Coast Guard Auxiliary and the state marine police. The Coast Guard should not, however, be in the business of acting as a dispatcher whose first requirement in a non-emergency case is to call some commercial salvage operation when Auxiliarists are standing by ready to assist.

The Auxiliary, I should point out, is an extraordinarily cost-effective resource. Out of a total USCG budget of nearly $2.5 billion, the entire Auxiliary costs a mere $6.5 million. In fact, its SAR budget is but one-tenth of this $6.5 million figure. Furthermore, Coast Guard Auxiliary operations are entirely compensated for by the fuel taxes paid by boaters of this country. Some $15 million is specifically allocated to the USCG under P.L. 98-369 for the Auxiliary and boating safety.

Mr. Chairman, we have heard much from the Administration about the need for more "volunteerism." We also know how strapped the Coast Guard's budget is now and what may become of it in the future. The Coast Guard Auxiliary together with the states can do more to help the Coast Guard accomplish its mission of saving lives and helping those in distress.

Before I move off this subject let me say that we strongly support another provision of H.R. 4208 which requires that all commercial vessels engaged in towing be licensed. Individuals operating towing vessels over 26 feet already must prove their competency to the Coast Guard. We believe that no less should be required of those operating smaller vessels. If they are going to get into the business of saving lives and property, then they should be able to pass minimum standards set by the Coast Guard.

My final comments concern a provision of H.R. 4208 which requires that from one to two percent of the appropriated amounts of the Boating Safety Trust fund be used to administer the Coast Guard's state recreational boating safety program.

We fully endorse this provision as do the states even though they stand to lose a few hundred thousand dollars per year. We all agree that this provision is necessary because we all want an effective program and because we know that the few billets that the USCG has alloted to this program are barely sufficient to administer it properly. If the USCG is unwilling or unable to provide the necessary manpower, then let us fund these positions out of our own excise tax dollars just as has been done in many other federal/state programs, including Dingell-Johnson.

On behalf of our Association members I would like to thank you for the opportunity to express our concerns. I will be happy to reply to any questions.

STATEMENT OF COMDR. CHRIS LAGEN, NATIONAL COMMODORE, U.S. COAST GUARD AUXILIARY

Good Morning, Mr. Chairman, members of the Senate Merchant Marine Subcommittee. I'm Commodore Chris Lagen, National Commodore of the Coast Guard Auxiliary. In private life I'm in the real estate business in Chicago.

I greatly appreciate this opportunity to appear before you on bahalf of the Coast Guard Auxiliary, an all volunteer force of recreational boaters dedicated to promoting safe boating.

The auxiliary is often described as the Coast Guard's most valuable asset in the campaign to reduce boating fatalities. Chartered in 1939, the auxiliary is the only boating organization with such official origin and charter.

As a member of the Coast Guard family for 46 years, this dedicated organization of volunteer men and women has distinguished itself in both war and peace.

Now, while we would like to say that our boating accident prevention efforts have solved all the problems, it is just not so. Every boater does not take advantage of our programs.

For this reason, the auxiliary is proud of its ability to offer proficient and cost-effective volunteer service assisting the Coast Guard in search and rescue activities. Auxiliaries undergo comprehensive training to support this capacity.

For example, the document you see before me here today is the auxiliary boat crew manual. It is the primary reference text in the Coast Guard's boat crew qualification program for auxiliarists, and closely parallels the program used by the Coast Guard to qualify its regular and reserve personnel in search and rescue seamanship.

Under this program, initiated in 1984, the Coast Guard requires all auxiliaries to demonstrate proficiency in small boat handling, seamanship, search and rescue, and communications. They must meet these rigorous standards set by the Coast Guard in order to be eligible for participation, at Coast Guard direction, in search and rescue activities. In addition, auxiliaries must equip their vessels at their own expense to meet specific Coast Guard criteria prior to having the vessel accepted as an operational facility for use under Coast Guard order.

Most auxiliarists enthusiastically support the boat crew qualification program, and feel the personal time and resources spent in training and qualifying are appreciated by the Coast Guard for the added operational effiency afforded.

The auxiliary understands the Coast Guard's policy not to interfere with private enterprise except in unusual circumstances—or where necessary to prevent loss of life or property. But auxiliaries are not in competition with private enerprise in rendering assistance to fellow recreational boaters. Auxiliarists receive no pay and are only sometimes reimbursed for the acutal fuel used. The auxiliary has long been considered "the boater's friend,"—a position members enjoy.

As volunteers, all that auxiliarists ask is that their services be utilized to the fullest potential. As recreational boaters and concerned citizens, they believe it is their mariner's obligation to assist other recreational boaters. In view of this, I feel that the auxiliary should be exempt from current Coast Guard policy regarding non-emergency assistance.

Thank you for listening to me. And now, if there are any questions, I will be most happy to try and answer them.

QUESTIONS OF SENATOR HOLLINGS AND THE ANSWERS

Question. One industry spokesman asserts that "the Auxiliary should be kept available for what they are best suited to do—patrol work and emergency rescues." What is your response to this comment?

Answer. While I would agree that the Auxiliary is fully capable of handling patrol and most emergency rescue assistance for the Coast Guard, I would disagree if the object of this statement is to give commercial salvors first priority in handling all non-emergency assists for the Coast Guard.

The Auxiliary understands the Coast Guard's policy not to interfere with private enterprise except in unusaual circumstance . . . or when necessary to prevent loss of life or property. But Auxiliarists are not in competition with private enterprise in rendering assistance to fellow recreational boaters.

The Auxiliary is proud to offer proficient and cost-effective volunteer service assisting the Coast Guard in search and rescue activities. Auxiliarists undergo comprehensive training to support this capacity. Yet, being volunteers, we recognize that our services may not always be available when required by the Coast Guard. Accordingly, the opportunity for private enterprise is not denied by virtue of our existence and use.

As volunteers, all that Auxiliarists ask is that their services be utilized to the fullest potential.

Question. Do Auxiliarists have liability insurance? What is the usual means for dealing with claims of damage or injury as a result of assistance rendered by the Auxiliary?

Answer. The Auxiliary National Board has an insurance policy for liability protection for members engaged in authorized activities and not under Coast Guard orders.

Under 14 USC, section 827, an Auxiliary vessel assigned to authorized Coast Guard duty is deemed to be a vessel of the Coast Guard. In this regard the Coast Guard is responsible for dealing with claims of damage or injury as a result of assistance rendered by the Auxiliary.

In such instances the Coast Guard investigates the incident and if the claim is within its statutory authority, the claim is paid. This includes personal injury and vessel damage for both Auxiliarists and third parties.

Under 14 USC, section 832, members of the Auxiliary who incur physical injury or contract sickness or disease while performing any specific duty to which they have been assigned by competent Coast Guard authority shall be entitled to the same hospital treatment afforded Coast Guard officers and enlisted personnel.

In the event of death or disability while performing such specific duty, 14 USC, section 707, provides benefits based on the pay of a GS-9. This is administered by the Secretary of Labor to the same extent as if the member were a civil employee of the United States and injured in the performance of duty.

Question. Do you have an estimate of what the typical Auxiliarist has to pay for participating in the Auxiliary? Please illustrate by describing the kinds of items and costs that an Auxiliarist is responsble for.

Answer. Estimated costs of what the typical Auxiliarist has to pay for participating in the program are as follows:

a. Annual dues	$25–$30
b. Uniforms	100–400
c. Non-reimbursable patrol	100–300
d. Administrative costs (auto fuel, uniform maintenance, training, teaching material, seminar travel costs.)	600–1,000

It is noted that with the exception of annual dues, the other costs are strictly voluntary and vary greatly relative to the members interest and degree of participation.

Question. In the past, the Coast Guard's search-and-rescue activities have been hampered by negligent boaters and fishermen who have run out of fuel or broken down because of poor maintenance. Doesn't the policy of priority to commercial towing companies tend to encourage such negligent mariners to take greater care when they go to sea?

Answer. No. The suggestion that giving priority to commercial towing companies contributes to preventing search and rescue activities is merely conjecture. We are concerned, however, with the demoralizing effect this policy has had among Auxiliarists and the resultant potential it may have in limiting the Auxiliary's own preventive SAR activities.

No boater or fisherman intentionally sets out to be the subject of a search and rescue operation. Similarly, no motorist intentionally plans a breakdown on the highway. Yet, in both situations, unplanned events do occur requiring assistance.

When in need of assistance, the mariner is at distinct disadvantage to the motorist. At the mercy of the elements, the mariner cannot simply walk to a phone and call for assistance by choice. Typically, the mariner must rely on marine radio to call for assistance. But in this case, it is the recipient of the call . . . the Coast Guard . . . who determine the choice of assistance to be rendered. The Coast Guard's determination that the mariner's plight is non-emergency in nature is, in many cases, valid only "in the eyes of the beholder." From the mariner's perspective, frequently the uncertainty of the marine environment aggravates the proportions of the crisis and fosters absolute reliance on Coast Guard assistance. However, the Coast Guard must frequently overlook the availability and capability of its own assets, including trained Auxiliarist, and assign the fate of the hapless mariner to a commercial salvor. It is a particular source of discouragement to Auxiliarists to have to stand—by and watch the Coast Guard assign cases to commercial salvors, forcing non-negotiable heavy costs on the boater for services Auxiliarist willingly volunteer their time, effort, and equipment to capably provide at no cost.

As recreational boaters and concerned citizens, Auxiliarist accept their mariner's obligation to assist other recreational boaters . . . a timeless seagoing tradition. Directly assisting fellow boaters contributes to the Auxiliary's image as "the boater's friend" . . . a position members enjoy and the public appreciates. The satisfaction gained is a source of motivation making the Auxiliary's own public education and courtesy marine examination program more effective as preventive search and rescue measures. In this regard, an educated boating public operating safely equipped boats has significantly greater preventive search and rescue potential, than irate citizens having been victimized while in distress.

Question. Aside from the Coast Guard's towing policy, what other reasons might be contributing to membership declines in the Auxiliary? What has been the Auxiliary's membership in each of the last ten years?

Answer. It is difficult to pinpoint exactly what has been causing the decline in Auxiliary membership. At first we attributed the decline to the state of the economy, but when the economy improved and a trend became apparent we realized an underlying problem was evident. Some programs were developed, both nationally and locally, where various types of award incentives were offered to growing units. By and large, this did not work. We do not have a problem in attracting members, the problem is in retention. Average tenure of an Auxiliarist is approximately four years.

A check with several other volunteer organizations revealed that our problem is not unique. What does make us unique as a volunteer organization is the amount of training it takes to qualify in order to perform in our various mission areas. Saving lives on the water can be dangerous and we must know what we are doing.

We have been looking at training requirements, reporting requirements, personal expenses and the way we do business in general, to see if we can "stem the ebbing flow of personnel." I have recently established a department of Member Resources, the primary purpose of which is to develop programs which will attract, and more importantly, retain members.

Membership figures for each of the last ten years are as follows:

	Active	Inactive categories	Total
1976	38,202	6,909	45,111
1977	37,637	6,069	43,701
1978	37,416	3,829	41,245
1979	37,265	4,850	42,115
1980	35,755	5,183	40,938

	Active	Inactive categories	Total
1981	35,454	5,765	41,219
1982	34,674	6,070	40,744
1983	33,916	6,702	40,618
1984	32,438	7,284	39,722
1985	30,818	8,008	38,826

I feel obligated, at this point, to state that the organization is still viable. Our members are dedicated to the safety of their fellow boaters and our parent service. I am indeed proud of their accomplishments.

U.S. SEA RESCUE,
Clearwater, FL, May 8, 1986.

Senator TED STEVENS,
U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS, I am writing to you concerning House of Representatives Bill HR 4208, Section 9. With the possible exception of a Presidential veto, you and the Senate represent the last bastion of private enterprise in the area of search and rescue. If this section of the bill is not struck down, private enterprises all over the country will die and the American taxpayer will be the loser.

Enclosed is a copy of a letter provided to President Reagan and the full committee in the House of Representatives. One point not made in this letter is that current law allows the full use of the Coast Guard Auxiliary in any area where private enterprise does not have a presence on the water. No change of this law is needed or desirable. The requested exemption of the Auxiliary in HR. 4208 puts the federal government in violation of Public Law and in direct competition with private enterprise.

I ask for your support in changing this section so that private enterprise may survive on its own merits and complement federal programs.

Sincerely,

LAWRENCE E. FUHRMANN,
President.

Enclosure.

STATEMENT OF COMDR. LAWRENCE E. FUHRMANN, U.S. SEA RESCUE

Mr. Chairman and Senators, as the President of a private enterprise engaged in Search and Rescue, as well as other services on the water, I appreciate the opportunity to express my concern pertaining to Section 9, of House of Representatives Bill Number 4208. Section 9, of this bill would exempt the Coast Guard Auxiliary from the provisions of Public Law 97-322, Section 113, which prohibits the competition or interference of the Coast Guard with private towing and salvage operators. The Coast Guard Auxiliary is a federal agency, under the aegis of the Coast Guard, founded and empowered by Congress in 1939. The Coast Guard Auxiliary is funded, at least in part, by taxpayer dollars. To exempt the Auxiliary from that prohibition creates a situation in which private enterprise is in direct competition with the Auxiliary, taxpayer dollars and the federal government.

Mr. Chairman and Senators, private enterprise can not survive competition with the federal government and its virtually unlimited resources. If this exemption is granted, the federal government will be forced to accept the full costs for search and rescue funding. Current Coast Guard statistics, as reported by the Coast Guard, reflect approximately forty percent of their annual budget is spent on search and rescue activities. Of that forty percent, approximately eighty percent of those search and rescue activities are categorized by the Coast Guard as support of recreational boaters who are in non-life threatening situations.

Four to five hundred million dollars each year are being spent on non-life threatening search and rescue. Cooperation between government and private enterprise can reduce this expenditure to zero. If private enterprise is allowed to gradually assume the responsibility for search and rescue, it will expand to meet the needs of the recreational boater. This expansion will generate in excess of one hundred million taxable dollars each year, and employ thousands with taxable incomes totalling one hundred and fifty million dollars.

Private enterprise can complement federal programs which will result in tax savings, and allow the reallocation of funds to permit increased emphasis on other areas of concern. Private enterprise can not, however, expand without investors and entrepreneurs willing to make expansion possible. Section 9 will drive out investors who correctly discern the actual competition with federal tax dollars that will result from the passage of Section 9.

Section 9, H.R. 4208, is opposed by the Administration, private enterprise, the Coast Guard Commandant, The Grace Commission, The Citizens for a Sound Economy, and the National Chamber of Commerce. In its present form, Section 9, is anti-private enterprise, wasteful and cost ineffective.

If the exemption of the Coast Guard Auxiliary forces private enterprise from the marketplace, this federal funding can only be expected to grow with each passing year. The costs for this funding are being paid by the American taxpayer. There are only eleven million recreational boaters in the United States and only six million of those who operate their vessels on waters which are serviced by the Coast Guard or the Auxiliary. Two hundred and thirty million Americans are paying the bill for six million recreational boaters.

If Section 9 is struck down, private enterprise will continue to expand in the marketplace without having to compete with federal tax dollars. The money now being spent in non-life threatening search and rescue can then be converted from an expenditure to an asset to the national economy. An asset that will produce in excess of two hundred and fifty million taxable dollars each year. Private enterprise is poised and ready to play a larger role in non-life threatening search and rescue, but, it can only do so if it is not in competition with tax dollars.

The law, as it now stands, allows for the full use of the Auxiliary in areas where private enterprise does not have a presence. The current law is appropriate and working for the benefit of all. Since the promulgation of PL 97-322, and the issue of Coast Guard Guidance contained in Commandant Instruction 16101.2, dated 29 June 1983, the evidence clearly proves the prohibition of interference is both right and proper, and beneficial to the taxpaying public through savings that are generated when private enterprise is not in competition with the federal government. Department of Transportation Audit of Search and Rescue Resources in Clearwater, Florida, dated March 8, 1984, provides the following data: In the first quarter of FY 1983 a comercial rescue service began to aggressively solicit search and rescue cases in Clearwater. Consequently, the number of search and rescue cases handled by the Coast Guard in FY 1983 declined significantly from FY 1982. In the first half of FY 1983, the Auxiliary workload was reduced by 76 percent and Coast Guard Station Clearwater's workload was reduced by 22 percent. Over 70 percent of the cases handled by Station Clearwater do not jeopardize significantly lives or property and therefore could be prosecuted by private organizations. The role of commercial enterprise will expand to fit the needs of the recreational boater under the present law. It will be impractical, if not impossible, for private enterprise to compete with either the Coast Guard or the Auxiliary.

The safety and education programs of the Coast Guard Auxiliary can not be faulted. The Auxiliary is doing a terrific job providing much needed information and education to the boating public in general. This role is proper and should even be expanded. The Auxiliary should not be in competition with private enterprise.

It should be noted, however, that the Auxiliary uses pleasure craft in the performance of search and rescue operations. These craft can vary from very small vessels to come quite large ones, but, they remain basically pleasure craft. Private enterprise vessels used in search and rescue are built to specifications that will take the enormous stresses and strains that occur in towing and salvage operations. Private towing and salvage operations are equipped with this in mind and can safely stand up to these stresses.

The Auxiliary constitutes unfair competition to private enterprise because it already enjoys numerous exemptions because of its quasi-official status. Liability insurance for the Auxiliary is assumed by the federal government, Auxiliary personnel are exempted from the requirements and standards applied to the commercial operator such as licensing of vessel operators and the requirements for specific items of equipment.

Also to be considered are training, equipment, and crew capabilities. Private enterprise must train, equip, and man their vessels with the cream of the crop, because every towing or salvage operation is inherently physically demanding. The average Coast Guard Auxiliarist probably exceeds fifty years of age. The same fine Auxiliarist, with thirty years of boating experience, who can effectively teach small boat operations, is not necessarily the man to hook up to a tow in pitching seas or to hand bail out a sinking vessel. For those two activities, and many others like them that occur every day on the water, given the choice, you would opt for a younger man with greater reserves of strength and stamina. An Auxiliarist and his wife are far less well equipped and trained to handle a vessel in distress than the trained, equipped, professional team of a private towing and salvage operator.

In closing, private enterprise should be encouraged to gradually assume the responsibility for all non-life threatening search and rescue. This can be accomplished safely and with no degradation of the services now being provided the recreational boater, if private enterprise is not made to compete with federal tax dollars. Private enterprise should be encouraged to assume this responsibility to change a tax liability to an asset. The Coast Guard would then be able to reallocate its resources more effectively in law enforcement and other geographical areas that are now receiving limited search and rescue support, such as the state of Maine. The Auxiliary would be able to increase its safety and educational programs for boaters. Private enterprise is prepared to cooperate, and complement, the programs of both the Coast Guard and the Auxiliary.

Mr. Chairman and Senators, I thank you for your time and interest.

PANAMA CANAL COMMISSION,
OFFICE OF THE ADMINISTRATOR,
Balboa, Republic of Panama, May 12, 1986.

Hon. JOHN C. DANFORTH,
Chairman, Committee on Commerce, Science and Transportation, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: In December the House passed H.R. 1362, an Act "To revise, consolidate, and enact certain laws related to load lines and measurement of vessels as parts C and J of subtitle II of Title 46, United States Code." If enacted, H.R. 1362 would implement the International Convention on Tonnage Measurement of Ships by requiring that certain American vessels be measured in accordance with the Convention.

Section 14302 of the bill provides that vessels measured in accordance with the act may not be required to be measured under another law. The measurement system for calculation of Canal tolls differs from the Convention measurement system. Therefore, section 14302 might be construed as precluding the Canal Commission from continuing to use Panama Canal tonnages in calculating tolls for American vessels. This would conflict with section 1601 of the Panama Canal Act of 1979, P.L. 96-70, 93 Stat. 462, which provides that the President is authorized to prescribe the rules for the measurement of vessels which pass through the Panama Canal. It also conflicts with the understanding that this Administration reserved in its acceptance of the Convention. That understanding states:

"That in the assessment of tolls for transit of the Panama Canal, the United States will continue to have the right to apply the present Panama Canal tonnage system or to adopt any other basis, in computing tonnages derived from volumes or other measures developed in connection with the said Convention." *Presidential Proclamation on International Convention on Tonnage Measurement of Ships, 1969.* T.I.A.S. 10490.

In the past, proposed vessel-measurement legislation, such as H.R. 5774 of the last session, has included provisions which explicity preserve the Canal Commission's right to apply Panama Canal tonnages in assessing tolls. The Canal Commission has studied rather extensively the Convention tonnage system, and that system may be adopted for Canal tolls assessments in the future. We have deferred action on adopting the Convention tonnages for the Canal largely because of opposition from Canal users. It is our view that H.R. 1362 should be amended to permit the Canal Commission to continue to assess tolls on the basis of Panama Canal tonnage, while still retaining the option of the Canal adopting the Convention tonnage at some future point in time. Amendatory language to accomplish this is enclosed herewith.

Chapter 51 of H.R. 1362 would require the maintenance of load lines on Panama Canal tugs and other working craft used locally. Since these vessels are not cargo carriers and because their use is limited almost exclusively to inland waters, we consider the requirement of load line maintenance to be an unnecessary expense. We request that chapter 51 also be amended to exclude vessels operated by the Panama Canal from its provisions. Amendatory language is enclosed.

The Office of Management and Budget advises that it has no objection to the submission of this report.

Sincerely,

D.P. MCAULIFFE,
Administrator.

Enclosure.

EXEMPTION OF PANAMA CANAL FROM H.R. 1362

1. Subsection 5102(b) is amended by adding a new paragraph (12) to read as follows:

"(12) vessels of the working fleet of the Panama Canal Commission."

2. Section 14301 is amended by adding a new subsection (f), to read as follows: "(f) Nothing in this chapter shall prohibit the measurement of a vessel for the purpose of assessing tolls for the use of the Panama Canal, in accordance with section 1602(a) of the Panama Canal Act of 1979, Pub. L. 96-70, 93 Stat. 489."

BUSINESS ALLIANCE ON GOVERNMENT COMPETITION,
Washington, DC, May 19, 1986.

Senator TED STEVENS,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR STEVENS, the members of the Business Alliance on Government Competition (membership list enclosed) ask your opposition to Sections 5 and 9 of H.R. 4208, the House of Representatives version of the Fiscal Year 1987 Coast Guard Authorization Act.

Section 5 would create a statutory exemption from contracting out in the Coast Guard for a list of undetermined functions which would likely come from a list of suggestions in the House report on H.R. 4208 (Report 99-547, see enclosed excerpts). Section 5 further designates two Coast Guard facilities where "industrial activities" cannot be contracted out, and prohibits contracting out security and firefighting at Coast Guard Installations.

Passage of Section 5 would result in inefficient micromanagement of the Coast Guard. Since 1984 Congress has required that it be notified of any plans to contract out in the Coast Guard. This provision has worked well. Section 5 is unnecessary because the requirements of OMB Circular A-76, which are binding on the Coast Guard, forbid contracting out of activities which are essential to national security. "National security" reasons are not adequate explanations of why activities such as those listed in the House report (see enclosed excerpt) should be exempted from contracting out. In fact, in 1984 and 1985 the Senate Armed Services Committee leadership opposed a "national security" exemption for "core logistics" activities during debate on the Department of Defense Authorization bills.

Enactment of Section 5 could result in serious new financial hardships for the Coast Guard. The requirements of reducing expenditures under the Gramm-Rudman-Hollings law increases the necessity for the Coast Guard to use the most cost-efficient method of performing needed activities. Tying the hands of Coast Guard managers could lead to suspension, or permanent abandonment, of activities which might have been maintained had more cost-effective means of delivery been used.

Enactment of Section 9 would reverse a 1983 policy decision of the Coast Guard Commandant that private sector towing services be used in non-emergency rescue situations. Coast Guard Commandant James Gracey testified during House hearings on H.R. 4208 that this provision could lead to confusion in the minds of Coast Guard personnel whether to call licensed private sector towing firms, or to call the volunteer Coast Guard Auxiliary. Furthermore, Commandant Gracey testified that the existing system works well with no diminution of safety.

Introduction of the Coast Guard Auxiliary into non-emergency rescue situations would bring a major new cost factor into the equation; that is, liability insurance. Private towers carry their own liability insurance. However, the actions of the Coast Guard Auxiliary, whose members get federal reimbursement for expenses, are the responsibility of the federal government.

In your consideration of the Senate version of the Coast Guard Authorization bill, the members of the Business Alliance on Government Competition hope you will agree that the government should not compete with its citizens to perform needed services. Sections 5 and 9 of H.R. 4208 would continue and expand such competition by the government with the private sector. They should be stricken from the bill.

Sincerely,

FRANK SELLERS,
Staff Director.

SHERMAN OAKS, CA, *June 3, 1986.*

Hon. TED STEVENS,
U.S. Senate, Chairman, Merchant Marine Subcommittee, Washington DC.

DEAR SENATOR STEVENS: I recently received a copy of National Commodore Chris Lagen's written testimony which was presented to your Sub-Committee on May 13, 1986. Upon review, I felt it omitted mention of the primary problem facing the U.S. Coast Guard Auxiliary . . . that of a severely declining membership; even though Lagen's testimony before the House Sub-Committee earlier this year clearly indicated declining membership as 'the' major concern.

Since the Coast Guard started to limit the Auxiliary's roll in search and rescue for recreational boating in favor of 'first call to commercial salvors' in 1978, and before it became their official policy in 1983, Auxiliary membership has fallen at a rate of over 1,000 members per year. Even more alarming is that that loss figure has been expanding to almost 1,500 per year since 1983.

I am convinced that this decline is directly as a result of this Coast Guard policy; for without the Auxiliary's participation in their primary Congressional Mandate, this volunteer service will in just a few years, become ineffective for supporting their parent service and the recreational boating community at large.

The Coast Guard cannot provide the many required services to our boating communities without the Auxiliary.

I believe the Coast Guard needs your help to relieve some of this self-created albatross. The Auxiliary needs it if it is to survive. Most of all, the sixteen million boaters and some sixty million people who go boating each year (who already pay for these services through their boating fuel taxes) are certainly deserving of these 'paid-for' succors.

Having been invited to testify before the House Sub-Committee a few months ago, I have enclosed herewith a copy of my report to them. Hopefully, it will provide you and the members of your committee with additional insights to better understand the fragility of the situation. Sensitivities are often overlooked as it passes through the military bureaucratic complex, or it realized therein at all, they would not turn back, for fear of losing face.

Your support for passage of the Coast Guard Reauthorization Act F.Y. 1987, HR 4208, intact, will finally put to rest this most distructive Coast Guard policy and in turn, encourage the volunteer Auxiliary healing process to begin.

Very truly yours,

LEN BERMAN.

Enclosure.

STATEMENT OF LEONARD BERMAN, PAST NATIONAL REAR COMMODORE, U.S. COAST GUARD AUXILIARY

Mr. Chairman and members of the subcommittee: I am Leonard Berman, a member of the Coast Guard Auxiliary, and among the many elected and staff positions held over the past 21 years, I was the National Rear Commodore, Western Area, 1980 through 1982. In this capacity, I was privileged to be a member of the Auxiliary's National Executive Committee that reviewed Auxiliary programs, recommendations from our rank and file membership, as well as those proposed by the Coast Guard itself. While being involved with these high office responsibilities, I was still doing in what Auxiliarists are supposed to be doing, regardless of offices held; that of actively being involved in our cornerstone activities, namely: Search and Rescue (SAR), Public Education and Courtesy Marine Examinations. Because of my direct participation in the Search and Rescue Operations of the Auxiliary, plus my exposure to members throughout the country and their expressed concerns regarding present Coast Guard policy for Auxiliary rescue operations, I feel most quafifeid to offer my observations in support of this committee's proposed Bill, labeled Discussion Draft January 31, 1986, Sec. 9.

I would also like to take this opportunity to express my appreciation to Mr. Studds and Mr. Davis, along with others who may have worked on this bill, for their sensitivity in recognizing the need for the changes put forth in Sec. 9 of this draft.

Some years before, and ever since the Coast Guard has updated their non-emergency assistance policy, making it official in 1983, the Coast Guard has limited Auxiliary Search and Rescue Operations.

This occurred shortly after funds ran out for support of the Natioanl Safe Boating Act of 1971 through 1978. It was thereafter that priorities had changed placing Drug Interdiction, Fisheries and Boat People as the prime targets for their services. With limited funds to properly address their many other responsibilities as well, the course of least resistance was to limit its assistance to the recreational boating community. This is when they began to seek releif from the private sector. At that point, the Coast Guard believed that the Auxiliary, being a component of their service, would come under fire for "inappropriate comeptition" if they were to use them over private towing and salvage operations. Thus, the restraining of Auxiliary rescue operations.

As a result of this decision, and in spite of continuous boating industry growth, the Auxiliary membership and morale (largely due to these Coast Guard decisions) has been sliding downward each year. It is now its lowest membership and support activity levels in all its cornerstone programs since 1970. I have personally experienced being a crew member on search and rescue duty, ordered to remain at the slip while Coast Guard Radio directed a private commercial salvor to a vessel in need of assistance. Our position to that of the distressed boat was no more than 30 minutes away. The salvor, I was told, arrived on scene some two hours later to meet a traumatized family. A further investigation revealed that the salvor was not licensed, was not insured for such duty, and had no apparent qualifications for being dispatched by the Coast Guard. In talking with my colleagues around the country, most of them have been experiencing similar curtailments and experiences while assigned to SAR duty.

The fact is that people join the Auxiliary, go through rigorous and continuous training just to assist the recreational boater when they are in need. To have to stand-by and watch the Coast Guard assign cases to commercial salvors, forcing non negotiable heavy costs on the boater is contrary to the ideals and principles for which they joined. Is it any wonder why we have slipped so badly?

The Auxiliary is the most proficient and cost effective official volunteer service this country has going for it. The Coast Guard could not meet its required obligations without them. Let's not continue to discourage them; they are a revered component of our society. . . a group to be cherished!

Our 16 million boaters, and some 60 million people who go boating each year should not be made victims of misguided policies established in the name of expediency, especially when these boaters are paying most of the taxes for recreationally related Coast Guard services; taxes that well cover the pittance cost of the Auxiliary volunteer rescue operations efforts.

As for the new breed of salvors that have grown out of this Coast Guard policy, I ask the following questions:

1. Are we to favor a relatively small number of private towing and salvage operators over millions of boaters?
2. Are we to bend the will of the Congress so as to appease these private businesses?
3. Are we to allow our citizens to be vicimized while in distress, leaving them no choice except to pay whatever these privateers feel the traffic will bear?

An archaic concept that boaters are all rich, does not equate to todays real world. In fact, 83% of todays boat owners are blue collar wage earners. These are the very same people who enjoy our national parks and the extended services of the Park Rangers and their volunteers. Among these services and their many duties, they also perform rescue operation as a public service. Then of course there is the Civil Air Patrol, the Ski Patrol Service, etc., etc. who also provide rescue services to the lost and stranded.

If the present Coast Guard policy on non-interference even for the Auxiliary is permitted to continue, we will legitimize, and thereafter establish by default, a "no choice" recreational boating salvor business whose only intention and interest is in how much profit they can make at the expense of traumatized boaters. This, in contrast to our congressionally mandated volunteer Coast Guard Auxiliary whose only devoted interest is in saving lives and property.

It is obvious that the Congress established the Coast Guard Auxiliary to provide, amongst other things, rescue assistance primarily for recreational boaters. This is evidenced by the fact that their very first purpose described in Title 14, sec. 822 of the U.S. Code is that Auxiliarists are to "promote safety and to effect rescues on and over the high seas and navigable waters."

If this requires further clarification and the separation of Auxiliary from Regular Coast Guard responsibilities in order to change the present position, then I feel it is the duty of this Body and the Congress at large to fulfill the intentions of their predecessors, and support the recommended changes put forth by this committee, without delay.

Great Lakes Prepaid Towing Association,
Lakeside-Marblehead, OH

Senator Ted Stevens,
Committee on Commerce, Science and Transportation, Hart Senate Office Building, Washington, DC. 20510

Dear Senator Stevens: I am writing to you on behalf of the Great Lakes Prepaid Towing Association. The Association consists of five (5) separate tow boat companies located in the States of Michigan and Ohio. The Association provides prepaid towing service on Lake St. Clair, the Detroit River and the western end of Lake Erie. We have contemporaneously supplied certain information to the Subcommittee on Merchant Marine regarding our objection to portions of S2405. We are especially concerned with Section 9 relative to non-emergency assistance.

If the United States Coast Guard Auxiliary is given the non-life threatening assistance calls, our Association would be virtually out of business. The revenue our members receive from these calls subsidizes our marine towage and salvage vessels. The revenue received from salvage alone cannot justify the great expense for such specialized vessels. These specialized vessels are used to salvage and assist wrecks, stranded, sunken, and/or burnt recreation vessels. Even the Coast Guard search and rescue vessels are not equipped to handle this type of assistance.

Moreover, Coast Guard Auxiliary vessels are pleasure vessels and are not designed or equipped to withstand the heavy loads of towing. Unlike our vessels, Auxiliary vessels do not have hull enforcements or engine modifications for the added stress.

If the Coast Guard Auxiliary begins providing assistance in non-emergency situations, the number of assistance calls is bound to increase. At the present time, there is no way to estimate the number of non-emergency assistance calls a Coast Guard search and rescue station will receive. On the other hand, commercial towing and the free enterprise system serve to reduce the number of calls by eliminating "frivolous' calls.

The economics of the situation also dictate that commercial enterprise is more cost effective than the Coast Guard. The Coast Guard will soon learn that in order to justify the large overhead expenses it must incur, it may have to begin charging for its services. As the number of assistance calls increase so will the costs associated with Coast Guard assistance. The cost of the Coast Guard Auxiliary vessels, fuel, damages to Auxiliary vessels, damages to vessels in tow, liability to Coast Guard personnel and liability to persons being towed, will soon escalate. The marine fuel tax money would soon be used up. Additional funds would either be provided by Congress or the Coast Guard would have to start charging for assistance. User fees might even be required for emergency search and rescue calls.

Our Association handled approximately 1900 cases between May and November in 1985. Each member handled between 300-600 assistance calls. Our safety record speaks for itself. To the best of our knowledge not one problem occurred with a distressed vessel while waiting for commercial assistance.

We hope that this letter and the testimony provided to the Subcommittee have persuaded you to vote against the Bill as proposed. In the event Section 9 is considered further by the Subcommittee, or goes before the full Committee or another Committee of Congress, we would like the opportunity to participate. We would also appreciate testifying on any other issue which may have a direct impact upon our Association. Under the circumstance, kindly contact us if you require any additional testimony or background information.

Very truly yours,

Neil Shrock,
President.

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